United States Court of Appeals for the Second Circuit

APPENDIX

NO. 77-4182

United States Court of Appeals

FOR THE SECOND CIRCUIT

B P/S

NATIONAL LABOR RELATIONS BOARD,
Petitioner,

v.

YESHIVA UNIVERSITY,
Respondent,

and

YESHIVA UNIVERSITY FACULTY
ASSOCIATION
Intervenor.

UNITED STATES COURT OF APPEALS
FILED
FEB 24 1978
A. DANIEL FUSARO, CLERK
SECOND CIRCUIT

ON APPLICATION FOR ENFORCEMENT OF AN ORDER OF THE NATIONAL LABOR RELATIONS BOARD

APPENDIX

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would be more comfortable as the acting dean -- if these were accepted, that there be a charge perhaps that the dean shall communicate his views -- hiw own views to the president and the faculty be permitted to address its own views directly to the president, on the grounds that I thoguth that the faculty had the -- was the kind of group that could -- could do it rather than as a conduit.

That was just a feeling I expressed to them.

Q Dean Green, putting aside the one objection that you had with respect to this document, which is based on university handbook and deals with the question of crediting grant time for tenure, putting that aside, does the faculty have the authority to promulgate this document as written should it choose to do so?

A I believe it does, yes.

Q And ti would be effective and binding upon you, I take it?

A Yes.

Q All right.

A There is precedence for that.

Q There is precedence for that?

A Yes.

Q Would you tell us what the precedent is, Dean?

A Well, a discussion of a recommendation I was going to make on tenure to Dr. Fischman, a vice president of academic affairs was returend to me with -- with a request that raculty take action on this before he even sees it again.

This was in a sense my support of a request for tenure and he felt that the way the school was operating in terms of those old rules and promotions, et cetera. that I ought to present it to the faculty first.

Q Now, Dean, let's turn to such old world coordination as may exist in the research area.

Is there any over-all coordination of courses in the research area?

A In a sense -- yes, you know, as I mentioned once before this morn ing, the research teachers -- let me start differently, if I may:

Dr. Sachs, who in a sense was the primary research person in the university -- in our school, came to me in the fall or maybe it was in the spring, I am not sure, and he told me that Dr. Rosenthal had made a peldge to him that he would have a lighter load which meant two courses instead of three in order to act as a kind of coordinator to convene research people to discuss and to kind of commonize -- I don't know if that is the word -- bring everyone in the research sequence group into some more harmony around the idea of research out of one's practice, because a person -- previous to that we had Sue Maizel and Dr. Hogtogs, people who came from this more formal school of research.

In order to help with that a regular full-time faculty who never taught research before was being supervised or monitored by Dr. Sacks, so that she could become more proficient in teaching research so he needed the time for that and also to -- to have meetings with all four or five people to, you know, to bring this quality or direction of the research group up there to the best level he could.

Q N ow, you said that Dr. Sachsksupervised or monitored a new faculty member in the research area.

By the way, who is that faculty member?

A It is a full-time faculty member.

Q What is his or her name?

A Dr. Celia Weissman.

Q Now, Dr. Scahs monitored or supervised Professor Weissman, I gatherhe is still ding that at this time, is that right?

A If she wants it.

It was the kind of way of giving her the help and support so that she would take in something she had really never done before.

Q Is she on ayear to year contract with you?

A She is a tenured faculty member.

Q I see.

Now, has Dr. Sachs a reduced load?

A Yes.

Q What role does Dr. Sachs play in the hiring of part-time faculty members?

A Well, an example there, the only thing I could say is that when -- last year Dr. Bacon was planning to hire a sociologist who could teach research in the college.

He submitted the name of this person to me to give to Dr. Sachs, to see whethdr the -- he would arrange an interview to determine whether this fellow would be suitable for us as a research teacher.

Q Did he interview him?

A I don't remember.

I think the thing fell apart in the negotiations with Dr. Bacon and the fellow from Columbia or wherever.

Q Does Dr. Sachs have authority effectively to recommend the hiring of part-time faculty members in his specialty area to you?

A Well, I would give it a lot of respect.

Q By the way, would you take a look, Dr. Green, at Employer's Exhibit 135, that is the first list we put

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HEARING OFFICER: Okay.

MR. KRAMER: The theory being that there is no difference between him working part-time at this school and holding full-time employment at Columbua University or holding full-time employment at the excluded Albert Einstein College of Medicine which belongs to our university.

That is the theory.

HEARING OFFICER: Thank you.

I just wanted thatclarified.

Q Do you have a salary schedule at Wurzweiler School?

A Well, there is a scale.

Q By rank and year?

A By rank and year.

Q And that is for each of the three ranks in your school?

A Yes.

Q All right.

Are the part-time employees on Employer's Exhibit 135 paid on a prorated basis as against the scale that exists for full-timers or in -- on some other basis?

A Some other basis.

Q What is that other basis?

I am not asking for numbers but for the rationale or the approach.

A I found --

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Q If any.

A I found the practice of people with a doctorate getting a thousand dollars a course, people without getging somewhere between 850 and 950 per course.

I don't know where that comes from but that was in a sense a practice and I just adopted the -- this practice. When I saw the payroll sheets.

Q That is per course per semester?

A per course, per semester.

MR. KRAMER: I have no further questions of this witness.

I would like to offer Employer's Exhibit 138 in evidence.

(Employer's Exhib it 138 for identification was received in evidence.)

MR. SCHECTMAN: Can we take a five-minute break?

HEARING OFFICER: All right.

(Recess taken at 3:02 p.m.)

(Hearing reconvened at 3:04 p.m.)

HEARING OFFICER: Back on the record.

CROSS-EXAMINATION

BY MR. SCHECTMAN:

Q I call your attention to Employer's Exhibit 135.

A Yes.

Q Could you go down your list of full-time faculty and give us their titles?

A I am full professor.

Beckerman is an associate.

Chartock is an associate.

Donshick is an assistant.

Feiner is an assistant.

Goldenberg an assistant.

Goldstein an assistant.

Lentschner is an associate.

Levitz is an associate. Levitz is a research assistant title.

Q Yes.

A Levy is full professor.

Linzer is an associate.

Raim is an assistant.

Sacks is an associate.

Setlies is a full professor.

Tyker is an associate.

Weissman is an associate.

And Wilson is a full professor.

Q And you indicate that on Employer's Exhibit 137 your part-time faculty have no title or rank?

A That's right.

Q You indicated thatyour part-time faculty teach either one or two courses.

Employer'z Exhibit 137 indicates there is only one part-timer teaching more than one course, is that correct?

Excuse me, two.

MR. KRAMER: I must object.

These exhibits really speak for themselves. That is why they were put in there.

MR. SCHECTMAN: I am talking now about not only this past semester, fall 1974, but the current second semester.

MR. KRAMER: These exhibits don't cover the current semester and they don't purport to cover the current semester.

MR. SCHECTMAN: That's why I am asking the question.

MR. KRAMER: The question was not phrased in my objection if what you are asking about is the spring semester.

Q With regard to the current spring semester, how many of your part-time faculty are teaching more than one course?

A I think Mrs. Brooks would be one who is teaching two courses -- I -- one or one and a half, but that -- but in a sense two, Mrs. Brooks, and Mr. Gottlieb.

Q What do you mean in a sense two?

A Well, there is an elective -- it's given for seven weeks and carries only one credit and I think I have asked her to take one of those electives, she is going to teach social work and she has an issues course, I know that.

I don't remember if she has the -- she probably teaches integrated essay to -- the otherhalf of the two so I'd say she has two and Mr. Gottlieb has two.

Those are the only ones that would be teaching two to the best of my knowledge.

Q You indicated that part-time faculty are hired ona per cost basis?

A Per course.

Q Per course?

A Yes.

HEARING OFFICER: Off the record.

(Discussion off the record.)

HEARING OFFICER: On the record.

THE WITNESS: These part-time people with the exception of Professor Margolin are hired by the course.

HEARING OFFICER: The corection refers to the testimon in the morning session by Dean Green where apparently there was a misunderstanding.

Q Now, with regard to the research assistant member of your faculty, Dr. Irving Levitz.

A Yes.

Q You indicated he is paid fully out of grant funds?

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of appointment from he president, do they?

A No.

Q And you indicated that your full time faculty were hired pursuant to a letter from the president?

A Yes.

That is the only way they can be hired.

Q Is that so in accord with university policy?

A I believe so, yes.

Q You indicate on Employer's Exhibit 137 that Miss Shelee Berman has part-time affiliatino at Stern College.

A Yes.

Q Is that part-time affiliation current?

A I am not certain because in the last two weeks she adopted a child and I don't know whether that will or will not change her status as counsel to students.

Q Do you know whether in the fall in fact she taught a course at Stern College?

A I don' tthink she teaches at Stern. I think she is a counsel to students.

Q I see.

You referred to Ms. Margolin as being a half-timer, did you not?

A Yes.

Q And you indicated also that she taught one course

A No, only from the dean.

Q That is your predecessor?

A Yes.

Or I might have signed it in his name.

Q And is part-time employment fixed pursuant to the need to staff certain courses according to student enrollment?

A I would say that is a fact,yes.

Q And that is true, is it not, for Ms. Margolin as well a the others?

A Yes.

It might help you in this instance that eight of these people on this list are not in our employ at this semester.

Q Yes, that would help us very much.

Would you tell us who?

MR. KRAMER: Employer's Exhibit 137 reflects.

A Only the four.

MR. KRAMER:Degree of permanency with respect to prior years.

Q You are referring to the spring semester?

A Yes.

Q The exhibit is correct as to the fall semester?

A Only for the fall semester.

Q Which of those faculty members are not teaching

Q And most courses are semester courses?

A Most, yes.

Q Approximately how many courses did you offer last semester?

A Well, we needed -- there are a hundred two places.

Q And how many were fileld by part-time faculty?

A I think about 17.

Q And four this semester?

A Yes.

Q Did you attend most faculty meetings?

A Yes, all of them.

Q Are you generally familiar with those members of your faculty who attend?

A Well, everybody attends.

Q You are saying everyone attends or are you referring now to your full-time faculty?

A Yes.

Q To what extent does your part-time faculty attend?

A It is very irregular.

Sometimes they are interested in a particular agenda item.

Sometimes they want to help out with assessments of students but other than that there is no egularity to part-time people.

Q Does Miss Margolin attend your faculty regularly?

A More regularly than others.

Q Does she attend regularly?

A No.

MR. KRAMER: Perhaps you can define what yu mean by regularly.

Q You testified your full-time faculty attend faculty meetings.

What do you mean by regularly?

A When they are called as in this instance either once a month or every other week and we have had some every other week lately, everyone comes.

That's on call.

Q If any members of your full-time faculty were to seek or obtain employment outside of the university would they need your expressed consent and approval?

A They would need to get the approval of president Belkin.

Q Is that pursuant to university policy?

A Yes.

Q Do your part-time faculty need such approval?

A To the best of my knowledge, no.

Q And do the memvers of the immediate family of your full-time faculty enjoy the privilege of attending Yeshiva University without paying tuition?

It's a committee organized by the faculty, so-called, outside the bounds of the business of the school.

Q What is the business of that committee?

A The business of that committee apparently after sitting in on and negotiating, seems to be the economic welfare of the faculty.

Q Is it your opinion that is not the business of the university?

MR. KRAMER: I must object.

That is really argumentative.

The witness has stated what his opinion is.

MR. SCHECTMAN: I am asking the witness to clarify testimony.

MR. KRAMER: His testimony is clear.

There is nothing to clarify.

MR. SCHECTMAN: In light of this -- in light of his most recent response I want to see now if he wants to correct a prior answer.

THE WITNESS: I am not sure what you are asking about, so you would have to help me, sir, or somebody.

HEARING OFFICER: Let's read it back and we'll clarify -- see if it is clear, the second reading.

Would you read back from the welfare committee

You may not want to be bound by this testimony but you are.

MR. SCHECTMAN: I will withdraw the question.

HEARING OFFICER: Thank you.

Q You indicated that you sat in on a negotiating session with this committee?

A Yes.

Q Were you a member of the committee?

A Which committee?

Q The Welfare committee.

A No.

Q And who are the members of that committee?

A The members are composed of I think everybody but the dean and the assistant dean.

HEARING OFFICER: Everybody, you mean the faculty?

THE WITNESS: An yone the faculty wants to make a member but they rule out the dean and assistant dean. They are not invited to these meetings.

Q At the meeting you attended -- strike that.

You were referred to the faculty, youare referring to be full-time faculty?

A Yes.

As far as I know, it is only full-time faculty.

Q At the meeting you attended was the entire full-time faculty present or were there any -- only representatives present?

A No, there was like executive committee.

Q Would you tell us who comprise the executive committee?

A The group that met with Dr. Sokal and myself and Dr. Rabinowitz composed of Professor Wilson, Feiner, Levit, Sacks and at one period Goldstein.

Q Was three a chairman of the executive board of the welfare committee presiding on their behalf or denoted as such at that meeting?

A No.

I would say the initiative was taken by people who I don't know as chairman or as part of the executive -- that is leadership by appointment or otherwise by the faculty.

Q And the Dr. Sokal to whom you referred is the vice president for business affairs?

A -Yes.

Q In what capacity was Dean Rabinowitz there?

AI I think he is -- he was there as a member of the budget committee of the university.

Q Was the purpose of that meeting to negotiate salary increases for the faculty at the Wurzweiler School?

A Well, it was at the time when the faculty presented their -- what they would like the university to give them for the coming year.

Q And was there settlement reached at that meeting?

A There --

MR. KRAMER: At this point I am going to object, Mr. Hearing Officer.

I have tried not to object, because I think it expedites the hearing not to intrerpose objections.

On the other hand I would like to know what the relevancy or materiality of this particular line of questioning is; what went on in this particular session can't conceivably have any effect on what the decision in this case is going to be.

MR. SCHECTMAN: Well, it is our position that indeed it does, particularly when the university has taken a position that all faculty are managerial and/or supervisory employees, and has yet taken another position as to whether there is the equivalent department chairman here has always taken a union position as to the status of part-time faculty.

That certainly these negotiations and how such policy is what we in fact contend is university business is established as truly relevant here and whether in fact it includes reference to part-time faculty, department heads or in this case we have heard something about conveners or in fact as to other persons to whom this

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HEARING OFFICER: We have examined the relevance of the question for the past ten minutes.

The question -- whether relevant or not -- would not have burdened the record to the point that the questioning of its relevance has burdened the record.

MR. KRAMER: I'm sorry. I am not going to represent my client and allow irrelevant and immaterial questions to be put in the record at nausea without objecting on the theory it would be easier to allow this record to expand in that fashion and then to expand itself in a fashion.

HEARING OFFICER: My ruling is it is relevant.

MR. KRAMER: Fine.

We except to that ruling.

HEARING OFFICER: Go ahead.

Q Was there a settlement reached at that meeting?

A Yes.

Q That settlement was consented to by the welfare committee, the representatives of the welfare committee at the present?

A They were to take it back to discuss with faculty.

Q There was consent on your part, Dean Rabinowitz' part and Dr. Sokal's part?

A There was consent on Dr. Sokal's and Dean Rabinowitz' part.

A Associate I think begins somewhere around 18 and goes again six steps.

Q To approximately what?

A Approximately 24.

Q And for full professors?

A I think full professors -- I think full professors is somewhere around 21 to 27, something of that nature.

I am not exact but it is in that range.

Q And those rates are in effect for this current academic year?

A I can only say that the agreement arrived at was arrived at without refernce to the scale.

Q It was across the board increase?

A Yes, sir.

Q So would that increase be in addition to the scales you referred to?

A Wherever people were on the scale at that time.

Q How much was the across-the-board increase for this year?

A $2,000.

Q So that if an assistant professor had been employed at $15,000 his or her salary would this year become $17,000?

A If he had completed one year of service.

Q And was there an increase agreed upon for the coming academic year of 1974-75?

A Yes.

Q That was across the increase also?

A Across the board.

All full-time faculty to be $1,000 in the near year and I think the three people who had been hired this year would bet $1,500.

Q And --

A Yes, because they didn't get the $2,000 this year.

Q Was there any salary increase settled for the next academic year for your part-time faculty?

A No.

Part-time faculty are not within the range of discussion.

Q]How long has the welfare committee been in existence at your school?

A I don't know.

There's always been some kind of a committee that the faculty always organized around -- dealing with the dean or the university around welfare matters.

Q And when you settled these salaries of part-time faculty whom you hire, do you consult with the welfare committee?

A No.

I think we are entitled when he goes byeond the direct to have a foundation laid.

That's all.

Otherwise they become airy opinions without foundation and I ha,e to go back to the witness I have put on the stand and show there is no foundation for testimony that may be given.

I shouldn't be put into that burden.

HEARING OFFICER: I have agreed with your position already, as with the original objection --

MR. SCHECTMAN: Let me proceed then .

Q Dean Green, do you prepare a budget for your school?

A Yes.

Q And what are the major categories included in that budget?

A Faculty salary, income, possibilities of either from tuitino or other sources. I think those weigh rather heavily.

Q Are there other items such as supplies?

A Yes.

There is travel and -- but they don't have the same weight as where the money comes in or where the money goes out.

Q And is it your sole responsibility at the

School to formulate this budget?

A Well, I do it in conjunction with Dr. Sokal.

Q Dr. Sokal is the vice president for financial affairs?

A Yes.

Q And he reviews your itemization of the various figures in the budget?

A Yes.

We discuss them.

Q And that would include projected income from enrollment and other sources?

A He would ask me what my anticipated class sizes would be and what the income might be.

Q when do you prepare a budget for an academic year?

A I'm not certain because I really haven't done more than a half -- coming in the middle.

Q Do you know what the past practice has been?

A It should begin sometime in the spring. Sometime around now.

Q And at that time you make projections to which you referred?

A Yes.

Q And they are discussed with vice president Sokal?

A Actually they might be discussed with the vice president of academic affairs.

A We have a switchboard operator typist we have a -- who is in a sense full-time.

We have an admission secretary who is full-time. Wehave one secretary on full-time on grant money. Three full-time and we have another lady who was secretary and functioning in a sense as -- she really isn't but I will call her this, we use her to keep tabs on things how things are going, she parcels out the work when we come to all the people in a rush and six guys want something typed tomorrow or this afternoon.

So at one point it was agreed that she would have the right to be the determinor of what priorities go before other priorities.

But she's a full-time secretary.

Q Is there a secretary pool of part-time secretaries that are at times available to your faculty?

A In addition to those four I mentioned there is two half time on hourly rates people who put in nine hours -- in nine to 12, nine to one.

Q Any member of your faculty has access to these secretaries?

A Through Mrs. Nenez.

Q And you testified that Professor or Dr. Lentschner worked -- works particularly with one secretary?

A Yes. the admissions secsetary.

Q And how many courses does she teach in the fall semester?

A I think she taught two.

Q And how many courses did she teach in the spring semester?

A She would have taught I think one.

Q Normally --

A Normally she would teach about one I think. I am not sure.

Q That's slightly in excess -- slightly in excess of one half? Of a full-time teaching load, isn't it?

A How do you mean that, sir?

Q You testified did you not that a full-time teaching load is three courses per semester?

A Generally three courses, yes.

Q So on a academic year basis she is teaching just -- just more than half full time teaching load, am I correct?
In other words, teaching six courses, she in fact is teaching three and a half a year?

A Something like that, yes.

Q And she will have occasion to counsel the students in her courses, will she not?

A Oh, yes, she has a number of students --

Q That is typical of any full time faculty member?

A Yes.

Q And she has office hours as any other faculty member?

A Yes.

Q And then in addition she serves as the head of the admissions committee, does she not?

A She is in charge of admissions.

Q And while she is in the committee review the applications?

A She generally screens or looks them over before they are sent out for interviews and then helps the admission committee kind of order them.

Q And they will meet together as a committee and consider the merits of those applications?

A Yes.

Q And while the secretary is present at all of the committee meetings?

A Yes.

Q And in what capacity?

A As a recorder.

Q She would be taking stenographic notes of the meetings?

A Decisions.

Q And she then is a passive observer at those meetings?

A Yes.

Q Did Dr. Lentschner hire Mrs. Ruderman?

A Well, I don't think she -- she can hire her, Mrs. Ruderman.

Q You don't think she can hire her?

A No. That's all I can say, if that's the meaning of your questions.

Q What is the basis of your opinion?

A Well, people are hired through through the school.

Q So that in fact Mrs. Ruderman was provided to assist Mrs. Lentschner by the school?

A I guess, so, yes.

Q And does Dr. Lentschner fix her salary?

A No. Clerical salaries are fixed by the union.

Q Does Dr. Lentschner take part in those union negotiations?

A No.

Q And does Dr. Lentschner fix what holidays or vacations Mrs. Ruderman will take or aare those also fixed under a union contract?

A I think they are fixed but subject to the need of her work.

Q So it's not fair to say that Dr. Lentschner provides a certain portion of her time to teaching duties and counseling of students, and -- strike that.

Isn't it true that Dr. Lentschner spends part of her time -- part of her employment with Yeshiva University teaching courses and counselling students?

A Yes.

Q You referred to Mr. Lloyd Setleis, as the Chairman of the Doctoral Committee?

A Yes, that's what he is referred to as.

Q Is that an informal title?

A We don't have chairman of anything in a sense, and we struggle always with titles as to how to -- so that we call him chairman when -- which comes out of the old days when there was a chairman of a committee to set up the doctoral program but now he's more in a sense a convenor a coordinator of the doctoral program.

Q And he will meet from time to time with that committee?

A Yes.

Q And how often does that committee meet?

A At least once a month.

Q And approximately how long are those meetings?

A About two hours.

Q And does any secretary attend that meeting?

A To my knowledge, we have not had any, although Dr. Setleis has wanted to bring -- to bring -- his secretary in and he did at one time, when I was present at a meeting.

Q But that was only at one time?

A When I was present.

Q And she was a passive observer?

A No, she took minutes.

Q And you indicated that Professor Setleis has a full work load, does he not?

A Yes. Yes.

Q I mean a full teaching work load, and that includes student vices, does it not?

A Yes.

Q Does he serve on any dissertation committees?

A Yes.

Q And how many hours a week is that secretary employed?

A The one that works with Dr. Setleis?

Q Yes.

A Less than 19 hours.

Q Less than 10 hours a week?

A Yes.

Q A good deal of that time she is typing papers?

A She is primarily doing work that he wants her to do.

Q A good deal of that work is typing is it not?

A Typing, some dictation, yes.

Q And did he hire that secretary?

A He interviewed her at my request.

I put a call out looking for a secretary and when this lady came forward and I met with her and then I had my -- many interviewes with her and he thought he would like to have her.

Q Did you make a judgment that she was satisfactory before you referred her to him?

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A According to my standards she would have been satisfactory to me.

Q Was it then your desire to see if it was his opinion that he could work with her?

A Yes.

Q And during the 19 hours or less a week that she works is she constantly in the presence of Professor Setleis?

A Part of the time she is located near his office in an adjoining room.

Q And Professor Setleis is in another room, am I correct, most of the time?

A Yes.

Q And is it possible that Professor Setleis would be teaching while she were working?

A Yes. Yes.

Q You indicated when you testified with regard to the community social work committee that they were involved with a grant from the Jewish Federation?

A Well, they're not really involved with the grant.

The grant was made to the school, and this committee meets from time to time with the Federation Committee to discuss how the program is going.

They have nothing to do with the grant.

Q And that grant was settled with university officials?

Q And then you refer that applicant to the Ad-Hoc Committee for consideration?

A To Ad-Hoc Faculty Selection Committee.

Q Do you screen these applicants before you refer them? Or do you refer each and every applicant?

A Oh, no. No. There's a screening.

Q And that screening is done by you, is it not?

A It has been.

Q And that is a first level screening, is it not?

A Yes.

Q You indicated that generally the Ad-Hoc Committee decisions were complied with after you had referred an applicant to the committee, am I correct?

MR. KRAMER: He didn't say an applicant, he said applicants, plural.

MR. SCHECTMAN: I am referring -- I am speaking generally.

MR. KRAMER: No, you are characterizing his testimony. You are not speaking generally.

MR. SCHECTMAN: Make the reference to applicant plural please.

A Whenever and Ad-Hoc Faculty Selection Committee has made a recommendation to the dean it has been accepted.

Q That's only subsequent however to the dean's referral of any applicant?

A Yes.

Q And that committee does not pass on salary or range, am I correct?

A No, it hasn't. That's negotiated.

Q Between you and the applicant?

A Between the dean and the applicant.

Q You indicated that the continuation of employment of a faculty member to an eighth year of service entitles that faculty member to tenure, did you not?

A Yes, that's the faculty handbook rule.

Q That's pursuant to university policy?

A Yes.

Q And is it requried that such a person receive a formal notice or letter of tenure?

A I am under the impression that if a person is rehired so to speak for the eighth year, that that automatically gives him tenure, or without a letter.

Q And in past practice this has been the decision of the dean to extend employment to the eighth year, has it not?

A Yes.

Q Now, you indicated that Employer's Exhibit 138, the guide lines for the creation of work of the committee on academic appointments was promulgated by the personnel committee, am I correct?

A Yes.

Q Thank you.

Is it not true that the policies set forth in this document will be governed by any university policy in connection with any matters raised herein?

A Oh, yes, it says so somewhere, that nothing in this statement can supercede the university regulation.

Q And that would be or that would include the faculty handbook, would it not?

A Well, the faculty handbook is the university handbook.

Q And those were the university regulations, are they not?

A Yes.

Q And the Wurzweiler faculty comes under those university regulations?

A Oh, yes.

Q And is it not the president of the university who has the ultimate authority to act on issues of hiring promotion and tenure?

A Yes.

Q You indicated with regard to the intergrated essays that some part-time faculty members do serve as mediators to students?

A Yes.

Q How many do?

A To the best of my knowledge there are two people who have so indicated an interest.

Q And that was pursuant to their request?

A Yes.

Q How many of your full-time faculty members serve as mediators to your students on intergrated essays?

A Everybody.

All full-time members do.

Q That's expected and required of them?

A Yes.

MR. SHECTMAN: No further questions of this witness.

BY MR. KRAMER:

Q Dean Green, you told Mr. Shectman on cross that you participate in the personnel committee meetings that led to the preparation of Employer's Exhibit 138, is that correct?

A 138?

Q The guide lines?

A Oh, yes. I am sorry. Yes.

Q And others participated as well?

A Why there are three or four others.

Q You contributed ideas and recommendations?

A I think I did.

Q Did the others contribute ideas and recommendations too?

recommendations -- how many applicants they recommended. I think they may have pinpointed either one -- you know, one or both, that's all I am trying -- that's why I am so hazy at the momentt

Q Now, with respect to the field instruction, you commented on cross examination in response to a question from Mr. Shectman that you made -- you yourself made recommendations concerning certain field agents to be utlized by the school.

To whom do you make those recommendations?

A To whom do I make those recommendations?

Q Right.

A Usually to the -- well, the -- to the faculty -- the field instruction coordinator.

Q And does he take them up with the file instruction committee?

A Usually.

Q And is that committee of authority in most instances to make a determination as to whether the agents will be taken on?

A He shares tht authority with them and I share it with -- with those two parties.

Q And is that why the faculty itself is a -- as a whole does not make this decision in most cases?

A It's a delegated responsibility.

Q Now, you told us that Professor Setleis interviewed his new part-time secretary?

A Yes.

Q Is that correct?

A Yes.

Q You interviewed her too, is that right?

A Yes, I had to find out if she was interested and under what conditions she would want to work and did she have any experience and so on.

Q If Setleis didn't want her would he -- she have been hired?

A No.

Q You would not have taken her on?

A I couldn't.

Q Would it be fair to say that he had the effective veto over whether she would be hired?

A I would say that's true, because it was in , all right yes.

Q How long did Professor Setleis take interviewing the new secretary?

A I don't know.

Q Do you remember the day it took place?

A I could refer to the records of when she was hired.

Q But you don't have any independent recollection in this area, do you?

A No.

Q As to when it took place or how long?

A I don't.

Q Now, you told us that you didn't think that -- you said you didn't think that Mrs. Lentschner hired her secretary, Mrs. Ruderman, is that correct?

A Yes, I don't know.

Q Is that you don't think that she did or you don't know whether she did?

A I don't know because she has been doing this for quite a few years and I was never really in a position of caring so to speak.

Q So if your testimony on cross is that you don't think that she did, you would want that testimony corrected, is that correct?

A I would say that I have no knowledge as to whether she did or didn't.

Q Now, assuming Mrs. Ruderman lest the employ of the institution, would Mrs. Lentschner have the same effective veto power of hiring a new secretary that Professor Setleis has?

A I would say, yes.

Q In other words, you wouldn't take someone on for that position that she wouldn't want?

CSA Reporting

A Not without her approval.

Q Now, you told us there was an across the board salary increase in 1974, '75?

A Yes.

Q Did those -- do the full-time faculty members whose on the grant funds, there is one so listed on Employer's Exhibit 135, and he is Dr. Irving Levitz?

A Yes.

Q Did he receive that across the board increase?

A Not for this year.

Q Did he leave it for next year?

A Yes.

Q Is there a reason why he didn't receive it for this year?

A Well, he was just hired, and on a salary negotiated and he is barely on the faculty -- only since the middle of September. It didn't make sense --

HEARING OFFICER: Off the record.

(Discussion off the record.)

HEARING OFFICER: Back on the record.

Q (By Mr. Kramer) You told us Dean Green, that new hires to your school for full-time positions for 1975, '76, would receive a particular increase, is that correct?

A New hires?

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You mean --

MR. KRAMER: Strike that.

THE WITNESS: Sorry.

Q You told us that personnel newly hired in 1974, '75? --

A Yes.

Q -- would receive a specified increase for 1975, '76, is that correct?

A Yes.

Q How much is that increase?

A That will be a 15 hundred dollar increase in comparison to the thousand that every other faculty member will get.

Q And would Dr. Levitz get that increase?

A He will get 15 hundred dollars.

Q Now, there was reference in your cross to regular and irregular attendance by full-time and part-time personnel at faculty meetings.

Now, by regular attendance by full-timers you mean what? Let's make this clear.

MR. SCHECTMAN: I object. The witness has already answered the exact same question.

HEARING OFFICER: Sustained. It's in the record.

Q (By Mr. Kramer) By irregular attendance I really want to just simply set up the distinction, by irregular attendance at faculty meetings by part-time factulty members, what do you mean?

Give us a feel for what you -- what that means?

A I mean that whenever a faculty meeting is called they do or don't come as they wish.

Q Now, approximately how frequently will a typical part-time faculty member come to faculty meetings to the school year, if you had to strke an average?

A Over the year?

Q Over the year? Assuming there were one a month -- assuming there were one a month?

A Well, there have been only three of all of the people that we have talked about who have maybe over the year might have come -- this is from past experience, might have come four times.

Usually around student assessment time.

Q Now, you had one other faculty member that you referred to, and that is -- as a half time faculty member, Mrs. Lillian Margolin?

A Yes.

Q And you said she comes more regularly than the other part-timers?

A Yes.

Q About how frequently does she come?

A I am not sure but if -- I am really not sure I could say every other meeting or whenever the impuluse moves her but I --

MR. KRAMER: As a matter of fact it hasn't been given repeatedly.

HEARING OFFICER: For whatever purpose. Let's continue.

Q (By Mr. Kramer) Now, Dr. Green, to your knowledge while a faculty member or while an acting dean or assistant dean has the president of the institution every discussed -- ever disapproved the hiring of a particular faculty member?

A I know of no such instance.

Q Has the vice president of academic -- for academic affairs ever disapproved the hiring of a particular faculty member?

A In our school I know of no such instance.

Q To your knowledge Dean Green during that same period of time has either the president of the institution or the vice president for academic affairs ever directed or for that matter effectively recommened the hiring of someone in your school that your faculty didn't want to hire or chose not to hire?

A No. No such case.

Q Now, you told us you have an assistant dean?

A Well, there is a so-called line for an assistant dean. We don't have one at the moment.

I carry both jobs in myself.

Q Would you tell us what you did as an assistant

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PROCEEDINGS

HEARING OFFICER CHAIET: On the record.

The matter in case 2-RC-16662 is now open.

Mr. Bodner, would you call your witness, please?

MR. BODNER: Yes.

Before I do, Mr. Hearing Officer, I would just want to mention that I was advised this morning that Dr. Landman, who is the witness who I will be calling, has a funeral in Brooklyn that he must be at, at twelve o'clock, and, therefore, he will have to leave here, in view of the weather situation, by eleven.

In order not to leave the time vacant, I have asked the witness who was originally prepared, scheduled to go on for tomorrow, if he can alter his schedule so that he can be available as early as possible today, and he has cooperated by altering that schedule, and indicates that he will be able to be here by approximately one o'clock.

HEARING OFFICER: Okay, very good.

We'll then start with Dr. Landman, go as far as we can, and then break until your next witness comes in.

Will Dr. Landman be available tomorrow?

MR. BODNER: Dr. Landman will be available tomorrow morning, and will be prepared to go on on time.

HEARING OFFICER: Very good.

Off the record.

(Discussion off the record.)

HEARING OFFICER: On the record.

Dr. Landman, are you ready to take the stand?

Whereupon,

LEO LANDMAN

called as a witness, was duly sworn and testified as follows:

HEARING OFFICER: Be seated, please.

DIRECT EXAMINATION

Q (By Mr. Bodner) Dr. Landman, will you tell us your position at Yeshive University?

A I'm Secretary of the Faculty of Bernard Revel Graduate School and Associate Professor of Jewish History.

Q How long have you been Secretary of the Faculty?

A Approximately, six years.

Q Is there currently a Dean, during this current semester, at the Bernard Revel Graduate School?

A No, there's not.

Q Now, in addition to the Bernard Revel Graduate School, is there another school that operates out of the same locale, and generally uses the same faculty as the Bernard Revel Graduate School?

A Well, there's the Harry Fischel School, but the Harry Fischel School is a summer school of the Bernard

Revel Graduate School.

Q And apart from the fact that it is a summer school, is there generally a similarity of the faculty?

A It's the same faculty.

HEARING OFFICER: Could you spell Fischel for us, please?

THE WITNESS: F-I-S-C-H-E-L.

Q (By Mr. Bodner) Dr. Landman, the questions that I will be asking you during the course of your testimony, then, will relate to both the Bernard Revel and Harry Fischel Schools, and if there are any differences or distinctions between them, would you point them out?

If not, I will assume that your answer is applicable to both.

A I will.

Q Okay.

Is it true that Mr. Joshua Fishman is currently Acting Dean of the Bernard Revel School?

A Yes, he is.

Q That is Dr. Fishman, who also serves as Vice-President for Academic Affairs?

A Correct.

Q And his Acting Deanship will cease, I would assume, as of the appointment of a new dean in the coming academic year?

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A Correct.

Q That is, the subsequent academic year?

A Correct.

Q Now, you mentioned, Dr. Landman, that you hold a faculty rank as Associate Professor of Jewish History.

How long have you held that rank?

A About three years, Associate, and before that, it was Assistant Professor.

Q Have you -- Are you currently teaching any courses?

A Yes.

I'm teaching two courses.

Q Those are both at the Bernard Revel School?

A At the Revel School, yes.

Q Do you teach courses at any other school of the University?

A No, I do not.

Q Now, you mentioned, Dr. Landman, that you teach two courses.

Is your status that of a full time or a part time faculty member?

A Part time faculty member.

Q You do not teach courses at any other school, so that you are not full time at any other school of the University?

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A No, I'm not.

Q Or full time, on a University basis?

A No.

I'm only at the Revel School.

Q Dr. Landman, will you briefly describe for us the nature and purpose of the Bernard Revel Graduate School?

A Well, the Graduate School, Bernard Revel Graduate School, is a graduate school of Judaic.

It attempts to teach how to do research, and to enable individuals to teach on the college or graduate level, or to do research or both.

We have a variety of fields that we're interested in, Jewish philosophy, Ancient, Medieval, Modern History, Semitic language, Bible, Hebrew Literature, and so on.

Q The purpose and nature of the Harry Fischel School, would that be essentially the same?

A It's the same, except as I said before, it's a summer school.

Q You mentioned, Dr. Landman, that you hold the position of Secretary of the Faculty, even though you are a part time faculty member.

Was there ever, previously, a dean of the Revel School, who was a part time faculty member?

A Yes.

Q What was his name?

A Dr. Sidney Hoenig.
H-O-E-N-I-G.

Q And he acted as dean, though he was a part time faculty member, even at the same time that there were full time faculty members available in the school?

A Oh, yes.

Q How recently was Dr. Hoenig dean?

A He was dean until this past year.

Q Okay.

A Until, I think it was September 1st that his deanship ended.

I'm not quite sure of the date.

Q In preparation for this case, Dr. Landman, did you, at my request, have prepared under your general supervision, a list indicating the names of members of the faculty of the Bernard Revel and Harry Fischel Schools, during the fall semester of 1974-75?

A Yes, I did.

Q I show you this for identification, and ask you if this is a copy of the list that was prepared under your general supervision?

A Yes, that's the list.

MR. BODNER: I would ask this be marked for identification as Employer's Exhibit No. 139 for identification.

CSA Reporting

HEARING OFFICER: The hearing is in order.

Mr. Bodner, call your first witness, please.

MR. BODNER: Yes.

Whereupon,

ZEVULUN CHARLOP

called as a witness, was duly sworn and testified as follows:

DIRECT EXAMINATION

Q (By Mr. Bodner) Rabbi Charlop, would you tell us your position at Yeshiva University?

A I'm Director of the Yeshiva Program.

Q How long have you been Director of the Yeshiva Program?

A Since 1971.

Q Prior to that time, what position, if any, did you hold at Yeshiva University?

A I was an Instructor of Talmud in the James Striar School, and I was a Lecturer in American History at Yeshiva University.

Q Do you now, or did you previously, teach any courses in the Yeshiva Program?

A No.

Q Did you hold any administrative positions in any of the other schools of Yeshiva University, other than Yeshiva Program?

In addition to your teaching responsibilities.

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A No.

Q Rabbi Charlop, would you describe for us the nature and the function of the Yeshiva Program?

A The Yeshiva Program is one of three Jewish Studies Programs, which is open to students of Yeshiva College.

Its emphasis is on Talmud and Codes.

The Program meets five days a week, Sunday through Thursday, meets for about twenty hours or so, from nine in the morning to a quarter to three, which is inclusive of lunch hour.

Q You mentioned there are three Jewish Studies Programs.

A Yes.

Q What are the other two Jewish Studies Programs at Yeshiva University?

A The James Striar School and the Erna Michael College.

Q Now, the Yeshiva Program, I take it, does --

Let me ask the question.

To whom does courses at the Yeshive Program apply?

Who are these courses offered to, students of Yeshive Program, or students of other colleges?

A Students of Yeshiva College, and students --

There are several students who do not attend

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Yeshiva College.

Q And the students that are not from Yeshiva College, where are they from?

A They're usually not going to college.

Q So, is it correct that the primary emphasis is courses that are undertaken in the area of Jewish Studies for Yeshiva College students?

A Yes.

Q Are these courses, offered to Yeshive College students, part of the required courses or curriculum of Yeshiva College?

A The required curriculum of Yeshiva College is that a student must attend one of the three Jewish Studies Programs, and he has to attend one of these three schools, and ours is one of the three schools he must attend.

Q I see.

Can those students of Yeshiva College take additional credits beyond their requirements in Jewish Studies?

A Well, they can get credits for taking courses at the Yeshiva Program, which are credited to their college, to their Bachelor's Program, at Yeshive College.

Q The credits offered by the Yeshiva Program, and courses of tha Yeshiva Program, are they recognized by

I will obtain further information on that, but I wanted it clear at this point that, if it turns out to be the case, that part of his full time status is related to RIETS, M. Schachter would then be more properly listed as a part time faculty member of the Yeshiva Program, rather than a full time, University faculty member.

Q (By Mr. Bodner) Rabbi Charlop, I notice, next to the name D. Bleich, the designation, L. O. A.

Would you tell us what that designation stands for?

A Rabbi Bleich is on a leave of absence for this year.

Q I see.

And is he expected to return in the coming -- the forthcoming academic year?

A God willing, yes.

MR. BODNER: I would just note, again, for the clarity of the record, and I would ask the witness to confirm, that there are no part time faculty member in the Yeshiva Program at this time.

Q (By Mr. Bodner) Is that correct?

A That's correct.

MR. BODNER: That, of course, is apart from Rabbi Schachter, if it turns out that he should be properly listed in the part time column.

THE WITNESS: Those listed under the full time, are full time.

Q All the individuals listed in the full time column, are full time, in Yeshiva University, and in particular, in the Yeshiva Program?

A Yes.

MR. SHECTMAN: Off the record.

HEARING OFFICER: Off the record.

(Discussion off the record.)

HEARING OFFICER: Back on the record.

MR. BODNER: I would also note for purposes of clarity of the record, that Prof. J. Ginsberg, properly appears in the full time column, as a full time faculty member of the Yeshiva Program, and Prof. J. Ginsberg is also a full time faculty member at another school of the University, namely, Yeshiva College, and so, his name appears also on Employer's Exhibit 110.

Q (By Mr. Bodner) Is it correct, Rabbi Charlop, that Prof. Ginsberg holds a full time position in the Yeshiva Program, and teaches a full time program in the Yeshiva Program?

A Yes.

Q Even though he is full time somewhere else?

A Yes.

(Whereupon, the above referred to was received and marked Employer's Exhibit 142 in evidence.)

Q (By Mr. Bodner) Incidentally, Rabbi Charlop, approximately how much teaching does Rabbi Schachter do in the Yeshiva Program, on a weekly basis?

A Two and a half to three and a half hours.

Q Rabbi Charlop, do all the individuals, individual faculty members in the Yeshiva Program, are they eligible to receive health benefits?

A Yes.

Q Are they eligible to receive pension benefits?

A Yes.

Q Are these health benefits the same as that offered to all other full time faculty members at all other schools of the University?

A Yes.

Q And is the same true with regard to pension benefits?

A Yes.

Q Is the same true with regard to all other benefits, such as life insurance?

A Yes.

Q Now, Rabbi Charlop, when a faculty member is hired in the Yeshiva Program, is there a probationary period?

Q To your knowledge, has a member of the faculty who has completed his probationary period, ever been terminated from Yeshiva University?

A No.

Q Now, Rabbi Charlop, have there ever been problems with the work of any of the faculty members who have completed their probationary period, that have come to your attention?

A Yes.

Q When those problems arose, would you tell us what you felt were your options with regard to handling them?

That is, how they were treated?

Will you tell us just --

Briefly describe for us the nature of the problems that may have arisen?

A Ineffectual teaching, in a comparitive sense.

Lack of rapport.

Essentially, the member of the faculty of the Yeshiva Program treats with students five hours a day, almost, the same students, and it takes a certain personality, a certain quality, to be able to relate effectively and to assure the utilization in wholest measure possible, during this period, and some teachers just don't measure up.

We think that they do, have promise of doing it,

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and they just don't do it for one reason or another.

Certain intangibles, call it charisma, today, whatever word you want to use.

When that happens, we're in a pretty big fix, because we never entertain the idea, this happens to be the truth, of severing our relations with that member of the faculty.

Q by Severing, you mean, it has -- it is not one of your options to terminate the services?

A I have never had it as an option; yes.

I've never had it as an option.

Q That is all true of all full time faculty beyond their probationary period?

A Yes.

Q In fact, all faculties?

A The only thing we do, I would redistribute the numbers that they have in their classes.

For example, an average class may be 30, 35. That, generally may end up with 15 or 14 in his class, which would do two things.

First of all, oftentimes, he can relate better, when he has a smaller group, then they can get to know him better. Some people can relate to 50 people and have that knack, and he can relate to 14. He can relate to certain students.

We have to do these things. That's about all.

Q And do you feel that the school is obligated to undertake these financial burdens of a reduced student load, or other changes --

A Yes.

Q (Continuing) -- in order to retain the full time faculty member?

A Yes.

Q Have there ever been instances where you have offered to continue the full time -- the full salary of a faculty member --

A We have discussed, I don't know if I can use the term, offered, directly, but we have certainly discussed and intimated to members of the faculty that we would be willing to keep them on full time pay, if they would not teach.

Q And this was because their services were not satisfactory?

A Were not satisfactory.

We could --

And their presence is a hindrance.

Q Would you have suggested this option, if you had available, the obvious option of terminating their services?

A No.

I would have terminated their services.

We don't have that option.

Q Okay.

A Let me say this.

I'm not unhappy with the fact that we don't have that option, for other reasons.

Q Would this amount to a situation where your faculty can continue -- can expect to have continued employment at the institution, absent financial emergencies?

A Yes.

Q Are you familiar with the status of tenured faculty in other schools of the University?

A Yes.

Q Would you compare the situation of your faculty, in terms of their expectancy of continued employment, absent a financial emergency, to that of faculty that have specific tenure, in other schools?

A At least, entirely comparable.

Q Would you tell us what factors you take into account in determining whether a faculty member should be retained beyond his probationary period?

A His effectiveness as a teacher.

How students relate to him.

How he manages to convey the information necessary;

involvement in any requests, or any requests directed to him by the faculty, then I'll allow him to answer the question.

MR. BODNER: It was intended in that way.

Q (By Mr. Bodner) Rabbi Charlop, in that sense, has the faculty ever indicated to you or inquired of you, as to whether they could obtain or felt the need to obtain, more formal tenure status, or de jure tenure status?

A No.

Q Now, Rabbi Charlop, would you describe how decisions are made in your school on what courses are to be taught?

A We take a concensus.

I consult every member of the faculty.

The set-up at Yeshiva Program is that every year we study one of the tractates of the Talmud.

Q Would you describe for us what a tractate of the Talmud is?

A The Talmud is the body of Jewish Law called the Oral Law, which was written over a period of close to 500 years, and is originally, as it's stated, an Oral Law, that was handed down from generation to generation, until it was finally put down about a century before the common era.

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with the holidays, and with the Sabbath.

So, then, we, as a matter of course, when I say, we, the faculty, myself, anybody involved in this, knows that we'll next year let us try to find a Talmud that is not Moed, be of a different order.

I'm never quite sure what order it's going to be, because we discuss it with every member of the faculty, individually, and I begin to get a concensus.

I say, at this time, we did Moed, the concensus would be, let's do Nashim, which treats with relations of men and women, and a special tractate, divorces, marriages, things of that sort.

There are various tractates in this order.

Let's say, the concensus would be that instead of torts. We happen to be doing torts. That's in Nezkin.

Q (By Mr. Bodner) Can I just ask, at this point, Rabbi, this decision reflects the concensus of the faculty?

A Certainly.

What I'm trying to say, so we would come down to a concensus, what order we'd follow next. And then everybody of the faculty is consulted.

Sometimes we have them in twos and threes, but usually, and then, let us say, that the concensus comes to a certain order and to a certain volume, we will accept it.

I leave in, even if I have a case where ten members of the faculty say they want one -- they feel one volume, one tractate for this year, and three say they want a different one, then I think part of my responsibility is to go to the other three and find the depth of their opposition, or their preference.

If I find that it's just, almost an optional thing, they would prefer to, but they'd go along with the rest, that's really what we're trying to do, we're trying to get some kind of comety.

If I find it's really deep-seated, then I look for another alternative, and see the other ten, and that has happened already, so there should be a concensus of the faculty, because the whole faculty studies the same volume.

Q By concensus, you mean with each individual's consent?

A With each individual's consent.

Q What was the decision of the faculty as to what tractate should be taught in this current academic semester?

A It was the decision to do the -- to do Nezkin, which is torts, and to do Baba Kama, which is one of the essential tractates that have to do with torts.

Q Now, once the decision is made by the faculty to have this year's program in torts, how is the decision made as to what each individual faculty member should do in his teaching part of that tractate?

A Well, they all teach the same thing.

They all teach --

See, the -- one of the most important parts of Talmudic learning is self-study, study on the student's -- on his own, in addition to lecture.

They're very difficult, intricate points.

The community of the Yeshiva Program is -- it extends beyond the hours, the circumscribed hours, in the sense, a boy wants to go over his work at night, he wants to be able to go to someone else to discuss it.

He may not be able to discuss it with people in his own class.

They may have chem laboratory at night.

Then he might be at a lower level, and he would want to get a more mature and in depth opinion here. So, he would go to a boy in a higher class and say, how did you learn it.

If each one was learning a different part, this kind of community could not exist.

Q I see.

Now, are there different ways in which the tractate in torts can be taught?

A The different styles --

There are different styles, yes.

Q Are there different aspects of the Talmudic --

A Of the same material?

Q (Continuing) -- of the material that could be emphasized or de-emphasized?

A Certainly, sir.

Q The decision as to which parts are emphasized or not emphasized, is that made by the faculty member?

A Yes.

Q The decision as to which sections of the Talmudic work related to torts, will be utilized, is that also made by the individual faculty?

A No, that's made by the concensus.

Q By the concensus.

Now, in determining Talmudic courses, is it necessary to bring in teaching the Bible underlying the Talmudic works?

That is, is a professor in your school required to teach Bible as part of his Talmudic course, or is that optional?

A That's entirely optional.

A student learning the Talmud, as a presupposition, can describe for us, where this leeway also exists?

A Certainly.

The question of practical law.

Now, when we talk torts, the various parts of the Oral Law, essentially, they are conceptual.

We tach principals.

Let's say that we'reteaching this year torts, and we're talking about how, if my ox gored your ox, now, this boy is really interested about the Sabbath can he do -- can he carry something, can he do something on a Sabbath.

Now, that's not taught to him at all.

If the Rabbi feels that he must devote a member -- a member of our faculty feels he must devote the entire time to, just to teaching the Oral Law, and let him get this practical law on his own, the books are available, and he feels he should be adept to do it, then he has the right to just teach his Oral Law.

If the member of the faculty feels he wants to spend an hour a week on practical law, which may have to do directly in showing, first of all, how these conceptual notions which are developed in class, torts, would deal directly to his Cadillac crashed into the teacher's Rolls Royce -- we have a very well paid faculty -- he could do that, or he may just teach them Jewish law, practical law, that has to do with Sabbat, or has to do with divorce, has to do with marriage.

Q This is a decision of the individual?

A Completely.

Q Are there exams given during the term of the class, by each faculty member?

A Yes.

Q And who decides what the exam will include?

A The faculty member.

Q Are there times during the normal period of Sunday to Thursday, when the faculty member would cancel the class, or change the schedule of the class to reflect his individual needs or problems?

A He can't cancel a class.

You see, again, when we're talking about this community, all classes are from nine to a quarter after twelve.

Well, let me put it this way.

The freshman and sophmore classes are Monday and Thursday -- Monday and Tuesday, nine to a quarter after twelve -- Sunday and Tuesday, nine to a quarter after twelve.

Monday, Wednesday and Thursday, to a quarter to three.

The junior and senior levels are Sunday and Thursday, from nine to a quarter after twelve.

Then, Monday, Tuesday and Wednesday, from nine to a quarter to three.

That's the slot where the teacher must -- that's his slot.

Normally speaking, the structure of a -- as it was classically part of the tradition of Yeshiva, and we're different now because we have it ordered within a University framework, so you have to understand these distinctions, was that in the morning hours from nine to a quarter to twelve, or nine to twelve, to the lunch hour, the student was essentially on his own, either in his classroom, or in the study hall, reviewing and preparing -- reviewing what he did previously, and preparing for the next lecture.

Then the lectures would be a quarter to twelve to 2:30 or so.

The professor would give a lecture. The professor is there at all times, questions are asked of him.

This is actually what we -- the minimal of what we expect.

We really don't expect anything more.

Now, this is what a teacher can do, and this is what -- this is not the execption to the rule.

It so happens that the exception have become the rule.

That some teachers teach an hour in the morning, and an hour in the afternoon, instead of having two hours.

They feel the two hour lecture at one shot is too much, and they feel they want to break it down.

Q This is up to the individual faculty member?

A Yes.

Some faculty members say the boys are not coming in at nine o'clock, or they feel they want to get him started in some way, each man has his own approach, and he may begin at nine o'clock, a quarter after nine to 9:30, I'm going to teach practical law. I'm going to get everybody down there at nine o'clock.

He doesn't have to do it, we don't expect him to do it, but he can do it.

The same thing, he can do with Bible, as he told you.

Beyond that, he even has the right to do it, and there may have been some complaints from students about this.

We have never yet interfered with this right.

To mark papers, give examinations, on this optional, totally optional work, which we didn't require of him.

Q This would be reflected in the student's grade?

A This would be reflected in the student's grade.

Q This decision is also made by the individual faculty member?

A Yes.

I must say, if a faculty wanted to start teaching Playboy, I feel that I would have to step in.

This is -- In the thing there.

But I don't know even if I would be able to do anything in that event; thank God it never happened.

Q But, in essence, --

A I may have to discuss it with the young man. That's all I could do.

I could discuss it with the teacher.

We never really had it. We were talking. We never really had it.

If I had it, I would have to discuss it with him.

I don't know if I could even stop that.

Q As of this point, have you ever had a situation where you have had to impose --

A Never.

Q Are there any limits then, other than what you have described in view of the concensus of the faculty, as to the tractate applicable for that year, are there any limits on the means by which the faculty member carries out his work responsibilities in the schools?

A No.

Q And your testimony has been with regard to this year's tractate --

A What do you mean by means?

I don't know what you mean by means.

Q By means, I am referring to how he goes about teaching his course.

A No.

Q Whether he schedules exams at particular times, other times?

A He must -- We require one exam a year. One exam a term, a semester, a final examination.

Many teachers give mid terms.

It's not required.

Q This is up to the individual faculty member?

A There are some professors that give five examinations a year. A semester.

Some -- All covering just the Oral Law, and some a combination.

And the professor has --

Q Apart from that, the means by which he conducts his responsibilities, are his decision?

A Yes.

Q Would this also be true with regard to other tractates, other than the one that is taught this year?

For example, if, next year, the decision was made to teach a tractate in holidays, would the same situation be applicable?

A Certainly.

Q With regard to the right --

A Makes no difference.

Q With regard to the right of the individual faculty member?

A Makes no difference.

Q Rabbi Charlop, has there ever been a meeting of the Yeshive Program faculty?

A No.

We have had once a meeting of the Yeshiva Program faculty, in conjunction with the RIETS faculty.

Q Were some of the issues involved in that meeting, related to the Yeshiva Program, apart from those also --

A They were only related to the Yeshiva Program.

Q I see.

Would you tell us what were the issues that were involved in that meeting?

A The students had organized an agitation to diversify Yeshiva Program.

The Yeshive Program is only Talmud, essentially.

given twice a week.

We have a Practical Law, although there are members of the faculty who do it on their own. Do it in different ways.

And they're entirely optional and open-ended, open to any student.

And, in that way, we avoided the mandatory feature, and it did not really become integrally part of the Program.

Q Is this essentially in keeping with the concensus or decision of the faculty, as to what should be permitted?

A Yes.

I think that it was, you know, almost entirely.

Q Are decisions made in your school on matters of -- of academic interest to the faculty, without consultation with the faculty members of the Program?

A I didn't hear your question.

MR. SHECTMAN: Can I hear the question again?

MR. BODNER: Yes.

Q (By Mr. Bodner) Are there any other areas in which decisions are made with regard to academic matters concerning the faculty, where you do or do not utilize the concensus of the faculty before you make the decision?

A No. No.

Q Because I did state the question somewhat ambiguously, by, "No," you mean the faculty is consulted with regard to the academic decisions affecting the school?

A Certainly.

Q Can you give us any other example, if you would, Rabbi Charlop, of a decision made by the faculty, with the concensus of the faculty, which affects the Yeshiva Program?

A The college program, for example, Yeshiva College program ends at the end of May, the beginning of June.

Last few years, we have extended the Yeshiva --

Usually, for many years, anyway, the Yeshiva Program ended the same time as the College program did.

We felt, members of the faculty were always complaining that they needed more time, that they would -- that we ought to extend the sessions two weeks, two and a half weeks, depending upon the year, beyond the calendar, the College calendar.

And we discussed it with all the members of the faculty.

Q What was the decision of the members of the faculty?

A The faculty, they were all unanimous that it ought to be done.

Q Was this decision of the faculty implemented, carried into effect?

A Yes.

Q This has been policy of the --

A Yes.

Q (Continuing) -- of the Program?

A Actually, it's experimental, because no one really knows how --

Many students live out of town, go away, and then the question is, how many do come, how much show up. What is the question of discipline in this kind of situation.

So, the faculty felt that the experiment ought to be tried.

Q Do the faculty in your school have a designation in lieu of rank, that is, generally given to them?

That is, how are they referred?

A Rosh, R-O-S-H, Yeshiva, Y-E-S-H-I-V-A.

Which means, literally, head of Yeshiva.

I think it's very interesting that we have thirteen heads of the Yeshiva, in the Yeshiva Program, because every class, in itself, is a Yeshiva assigned to itself, precisely because of the --

It's a world unto itself, to which the -- where the master's master of his own home.

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Q The master, in this case, being --

A The Rosh Yeshiva.

The only way you can have a master-deciple kind of relationship.

Q With each individual Yeshiva, or each individual course, does the faculty member then occupy the rank of master, or head?

A Yes.

Q Is that with regard to all the decisions affecting that class?

A Yes.

Or that group, or that world, or that Yeshiva.

HEARING OFFICER: What is the literal translation of Yeshiva?

THE WITNESS: Sitting down. Sitting down.

Because they sit and learn, study.

MR. SHECTMAN: Rosh means head?

THE WITNESS: Rosh means head.

There used to be a time, I must tell you that, in other Yeshivas, days gone by, there was only one head of the Yeshiva, which is a normal situation. And then everybody else is called a Magid Shiur, a lecturer.

M-A-G-I-D S-H-I-U-R.

But, in our situation, the fact is that we call

In fact, some members of our faculty, during the question and answer, after the presentation, had raised some very pertinent points, I don't want to make any invidious comparison, but the gentleman representing the insurance company, thought that they were among the most pertinent points raised, which will benefit, of course, the entire University.

Q You already testified that the health benefits program is the same as it is for all the faculty?

A Yes.

Q Rabbi Charlop, are there any committees of the Yeshiva Program, other than the members of the committee to which you have just referred, which are essentially University committees?

Are there any committees, though, of the Yeshiva Program?

A No.

MR. BODNER: I have no further questions at this time.

CROSS EXAMINATION

Q (By Mr. Shectman) Rabbi, for the purpose of this question, please exclude the Albert Einstein School of Medicine, Yeshiva High School, the Community Development -- Community Service Division and RIETS, and Sue Golding, as well, from our consideration of what

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Yeshiva Program hours are, the instructor, the Rosh Yeshiva, however you define him, must be there full time, and I gave you the hours, the same hours, it comes to about 20, 22 hours, he must give a minimum of 10 hours of lectures, and then he must be there for a period of, in the classroom, with his students, for a period close to 20 hours.

Q Is that true for each of the persons listed under, Full Time, here?

A Yes.

Q And you indicated, did you not, that you did not know whether they received an appointment letter from the President?

A I didn't know.

Q Who hired these persons?

A Well, most of them were hired before I was here.

I hired --

When I say, I, I was the one who made the appointments. In the sense that I spoke -- I spoke to the President of the University about these appointments, and with his approbation, we made the appointments of Rabbi Willig, Rabbi Reichman, and Rabbi Bronspigel.

Q Did you write them letters, notifying them of their appointments?

A No.

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Q Do you know if President Belkin wrote them letters?

A I said, I don't know.

Q You indicated that H. Schachter and J. Parnes is, or are, employed at RIETS.

Are there any other persons listed in that column of full time faculty employed outside of the University?

A I didn't get your question.

Q Are there any persons under your column designated, Full Time --

A Yes.

Q (Continuing) -- who teach outside -- who teach or are employed outside of the University?

A I --

Q To your knowledge.

A Yes.

Q Those persons are, and can you describe what they do?

A Rabbi Alpert, he has a weekend position.

Q A pulpit?

A A weekend pulpit in the East Side.

Rabbi Bleich also has a weekend pulpit.

Rabbi Willig has a weekend pulpit.

That's all I know of.

Q Did those persons request explicit permission from you to maintain that outside employment?

A Well, in two of the three cases, they had outside employmentwhen I came in, so -- and in one case, took outside employment.

Q Do you know if these persons consulted or obtained the express approval of President Belkin?

A I don't know.

Q Do you know whether your faculty is covered under the terms and provisions of the University Handbook?

A Well, I think I mentioned before that I -- I'm quite familiar with the University Handbook -- that all the --

Let me say, benefits, faculty benefits of the University Handbook, in total, are applicable to them.

Q That includes tenure?

A That includes tenure, certainly.

In a de facto sense.

We have never --

Everybody's tenured.

Q But, you are aware, are you not, that tenure is part of the, tenure policy is part of the faculty handbook?

A Certainly.

Q And is it your testimony that the tenure policy

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in the faculty handbook, covers your faculty, as well as the rest of the University?

MR. BODNER: I would object.

This is the same question that was asked before, and it was just answered just a moment ago.

MR. SHECTMAN: I don't think that answer was responsive to the question.

He indicated again, there was de facto tenure.

That's not what I'm asking about.

HEARING OFFICER: Let me make a point or two here.

From my understanding, Yeshiva Program came into being in 1970?

THE WITNESS: Yes.

You see, at one time, the Yeshiva and RIETS were one group.

HEARING OFFICER: Yes.

Yeshiva Program, you mean?

THE WITNESS: Yeshiva Program and RIETS were one.

That was for many years. And many members of the faculty are many, many years, 20, 30 years on the faculty.

Now, when you asked me when Yeshiva Program, as an entity, came into being, that was in 1970.

And then it has a college level of junior, freshman, sophmore level.

That's it.

And, I think, that that's important in the sense that we're not dealing merely with four years of tenure here.

HEARING OFFICER: That was the point I was trying to make.

THE WITNESS: We're not dealing with four years of tenure.

We're dealing with people here 30 years.

Just before it was part of the University --

RIETS was part of the University before, this is what happened.

RIETS was part of the University. RIETS is no onger part of the University.

That's all it is.

Q (By Mr. Shectman) So then, those persons who had tenure, maintained tenure?

A Yes.

Every one of them.

Q That would be the tenure as provided for in the faculty handbook?

A Well, see, I can't --

Q If you know.

A I don't know.

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promotional track for a man appointed as a Rosh Yeshiva?

A There is a promotional track.

Q What is that track?

A The track is going from a first year level, to a second year level, to a third year level, to a fourth year level.

Q So, each year seniority brings with it, you're saying, a promotion?

A Seniority brings promotion, yes.

Sometimes people are promoted because of -- beyond seniority.

Very rarely, I won't say absolutely no, very rarely have we overlooked seniority.

Q But they're not promoted into another title, are they?

A They may be promoted into another title for state reasons, that they may even be unaware of.

Q What are state reasons?

I'm not sure I understand.

A Let's say we have to send in a -- our faculty to the Board of Regents, or something of that sort. So, some people call it assistant professor, some call it associate professor.

That's usually because of term of service. But it's not something that the professor, himself, is aware of, to the [illegible]. I just now finished [illegible] aware of, to the sense he says, I just now finished five years, I'm an associate professor.

Q Does the professor even know what his title would be for state purposes?

A I don't know, you'd have to ask the professors.

Q Do you know what their titles would be for state purposes?

A I don't know offhand.

I can get them.

Q For state purposes, you'd have some associate professors, some professors, some assistant professors?

A We may. We may.

Q To the best of your knowledge, you think there might be?

A There might be.

I wouldn't go beyond that.

Q Do you know if there would be any professors for state purposes?

A In this listing?

Q Yes.

A No.

Q Would there be any associate professors, for state purposes?

A Very possibly.

Q Would there be any assistant professors, for state purposes?

A Yes.

Q And would there be any instructors for state purposes?

A Yes.

HEARING OFFICER: Off the record.

(Discussion off the record.)

HEARING OFFICER: On the record.

Q (By Mr. Shectman) Is there a salary schedule in effect for the faculty of the Yeshiva Program?

A There is a minimal salary schedule in effect, yes.

Q Can you describe it, generally?

A Minimal salary is ten thousand.

It may be now -- I'll have to be very careful about this, because we just received a raise, $750.00, and I haven't hired anybody in the last two years.

The last time we hired anybody was ten thousand.

Q This $750.00 you believe --

A There were two raises in effect.

A $500.00 and a 750.

I'm not quite sure what was last.

Q Is it your belief that the minimal salary would now be $11,250.00?

A I don't want to -- I don't want to say for sure.

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same raise.

Q Those raises were then keyed into --

A At the same time the College got it.

Q They were keyed into the settlement reached between the Welfare Committee of the Yeshiva and Stern Colleges, and the University?

A Yes.

Q What is the highest salary paid, currently, for members of the Yeshiva Program?

A Well, that's hard to say.

Let me tell you why it's hard to say.

You pinpointed several members of the faculty that are part time, in some other part of the University, part time.

We may give them -- They get a higher salary, you know. It's worked that way.

That's with the business office, I don't know how they compute the salary.

I get the salary just as it is.

Some part of that salary may be in difference to the fact that they're teaching a few hours more.

You have Rabbi Parnes, it's an hour fifty more a week, two sessions more a week. So, it's --

But they would range up to, presently, including the Examiner, $18,000.00.

Q And would most of your faculty fall around the middle of that range, between 10 and $18,000.00?

A That would be 14,000.

Yes.

Q Hardly the salary for a Cadillac or Rolls Royce.

A They drive spiritually.

Q Are there any members of your faculty now being paid their full salaries, who are not teaching?

A Yes.

Q Who is that person?

A Rabbi --

No, no, I'm sorry. Sorry.

No one.

There was a member of our faculty, but then he went into RIETS, and he's not in our faculty. But he was a member of the Yeshiva Program at one time.

Q How many of those --

Strike that.

You indicated that you hired Willig, Reichman and Bronspigel?

A Yes.

Q When did you hire them?

A 19 -- 197 --

In June or May of 1973, or summer of 1973.

This is their second year.

Q Can you describe that hiring process, briefly?

A Yes.

We felt that we needed new blood in the institution. There wasn't really any loss of faculty, but just as I told you, some faculty members were ineffectual.

We felt that we can't do anything to them, we just give them small classes, but we need to have effective men, it means recruitment, many things.

I may say, in digression, that the fact of the matter is now the classes are huge. They have made --

Their classes are --

Not huge in the sense of numbers, but they're very --

Q Try not to digress, Rabbi, and just answer the question, please.

A What was your question again?

Q If you can describe, briefly, the hiring process.

A I didn't mean that --

Q How these persons applied, how were they -- how their merits as hiring --

A During the course of the years, various people apply for positions, and I usually tell them, there's nothing available.

Q To whom do they apply?

A To me.

I tell them, there's nothing available, or there may not be anything, or there may be something available.

Then, when the need for new blood or new men presents itself, and only presented itself once in my tenure, and that was a major transfusion.

What we did was, together with the President of the University, acting on this, --

Q Did he authorize and give you permission to fill three new faculty spots?

A Yes.

Expressly, gone through it very carefully.

Q His permission was required?

A Yes, certainly.

That's why I tell you about the whole letter procedure.

Q These persons had applied to you?

A Yes.

Let me tell you, I'm sorry, I'm not digressing at all.

I just want to tell you the process, the way a Rosh Yeshiva is chosen.

You see, a man teaching -- You take a man on the faculty, in the College, it's quite conceivable nobody in the faculty of the College ever heard of that man.

final decisions?

A This is something that is altogether different.

I would go to Dr. Belkin, the President of the University, and I'd tell him that I think we need new blood.

This is exactly what I did, I think we need a major transfusion. He says, how many people you think we need. I said, we need three good men to come in, two minimum, three good men. To shake up this -- To shake up the whole institution, to give it new blood, new vitality.

He says, all right, do you have three men in mind. Then I said, well, I have a group of people in mind, and then we discussed, and he says, who do you have in mind. And I tell him, these are the people we have in mind, all of them, with the exception of maybe one or two, maybe I discuss ten people with him, are well known to him, because they are well known to the entire Torah community, to the entire Yeshiva community here, that these are young men who have made their mark in their early studies, are prodigious. Some through publications. This is before they're appointed.

So, through the fact that they are -- they heed what we call Chaborut, small groups of students on their own, without pay, for years.

That they're members of higher institutes of Jewish learning, such as K-O-L-L-E-L, and these names are almost household names.

They may be only 23 or 25 years old, but everybody in the learning community knows who these young people are.

Then, out of this designated group, we say to ourselves, who is the best.

Q Who is we?

A Dr. Belkin, the President and myself.

Every one of these names, you have to realize, is well known to every member of the faculty, one of the considerations, most important consideration is, is it credible.

To become a member of our faculty, and I didn't want to answer your question before, but it is a prestigious institution, and it's probably the most prestigious, not in the institution, but throughout the world, of this sort, very important, very great achievement.

So, it has to be credible.

And, will it be acceptable to the faculty.

We can't take any Tom, Dick and Harry and stick him on the faculty.

That's the way it's done.

CSA Reporting

I must say that the new appointments were received with approbation. And they were discussed, in fact, as much as we could, there was some questions of discretion, some people who were interviewed for reasons, didn't want it to be --

Q Excuse me, --

A Some people didn't want it to be known that they were being considered, in case they would not be --

Q Who conducted the interviews?

A I did.

Q And after interviewing the candidates and finding out their respective availability, did you then consult again with President Belkin?

A Yes.

Q Was it finally President Belkin who approved the choices that you had made?

A Yes.

Q You indicated this --

A This is, getting back to the --

I don't want to digress, when you talked before about the letter, in most instances, the member of the faculty who's appointed goes up to Dr. Belkin and thanks him for the appointment.

It's altogether different than the very formal kind of letter, where the man never sees the President

A I --

Q As to scheduling, hours, placing of classes?

A Yes.

To the sense that, just like a University schedules hours, the history course from 3:00 to 4:00, and have to be done on Tuesday and the professor can't give it on Wednesday, we schedule our Talmud courses, maybe a little longer duration, maybe more times a week, but, certainly, within very circumscribed areas of time.

Q That's pursuant to policies established by the University administration, is it not?

A Yes.

Q The Director of Admissions you referred to, Rabbi Gruf, --

A Yes, sir.

He's also Director of Admissions of the College.

Q Who's your representative on the Senate Committee?

A The representative --

We have a Senate Planning Committee, and -- which is only a few months old.

Q The University-wide committee.

A Yes.

Q Who is the representative from the Yeshiva Program?

A I am the representative of the committee, because we have just taken up this question.

Q The Committee of Academic Priorities?

A I am the representative.

Q Okay.

A You must realize that all these committees are only several months old.

Q Are there not faculty from other schools represented on that committee?

A Yes.

HEARING OFFICER: Rabbi Charlop, do you teach ourses in the Yeshiva Program?

THE WITNESS: No.

Q (By Mr. Shectman) You indicated that President Belkin was familiar with your full time faculty, did you not?

A Yes.

Q Would he likely know of their outside employment, their weekend pulpits, for instance?

A He knows of every one of them.

MR. BODNER: I would object.

I don't know if we can ask this witness a question about what Dr. Belkin would know.

HEARING OFFICER: Objection sustained to the first question.

Q If you know, does President Belkin have knowledge

PROCEEDINGS

HEARING OFFICER CHAIET: Mr. Bodner, call your witness.

You are still under oath.

Whereupon,

DR. LEO LANDMAN

having been previously sworn resumed the stand and testified further as follows:

CONTINUED DIRECT EXAMINATION

Q (By Mr. Bodner) Dr. Landman, when we left off yesterday when you had to leave to attend a funeral we were on Employer's Exhibit 141, and I would ask you again to refer your attention to that exhibit which is the list showing the faculty members of the committees of the Revel and Fischel Schools.

Would you briefly describe for us the function of the Welfare Committee.

A The Welfare Committee discusses various problems concerning the faculty.

It meets at its own discretion.

It deals with mostly the relationships between itself and the University and the School.

Q When you say various matters concerning the faculty, do these matters include what is normally characterized as interests in salary remuneration and related conditions?

Q Where that is the case does the part time faculty member represent the interests of both part time and full time faculty members?

A Correct.

Q I notice on other committees, in fact as the Three Part Committee which is referred to that a majority of the members are part time.

MR. SCHECTMAN: I object to running through the committees and making tabulations and comparisons of the items as they speak for themselves.

MR. BODNER: I will withdraw that question.

Q (By Mr. Bodner) Dr. Landman, do the faculties of the Revel and the Fischel Schools meet as a body to discuss and make decisions on matters of interest to the faculty?

A Yes, they do.

Q Are there written bylaws governing such meetings?

A No, there are not.

Q Are there general minutes taken of such meetings?

A Yes, we do take minutes.

Q When was the last meeting that the faculty of the Revel and Fischel Schools, if you can recall?

A The end of January.

I don't remember the exact date.

Q I show you this for identification and I ask you

Q So has this passage by the faculty now become the policy of the School?

A It is the policy of the School.

It hasn't been approved yet by the State, but as far as the School is concerned this is what we want.

Q The State being the Regents?

A That's right, yes.

Q Within the framework of the University, the decisiona authority rests with the faculty?

A That is correct.

MR. BODNER: I would ask that this document, Employer's Exhibit 143 be admitted into evidence.

MR. SCHECTMAN: I have no objection.

HEARING OFFICER: Received.

(The document above-referred to heretofore marked Employer's Exhibit No. 143, was received in evidence.)

Q (By Mr. Bodner) Dr. Landman, are there in addition to the faculty members, meetings of departments within the Revel and Fischel Schools?

A There are, but again very rare because of the small size of the school.

Many of the things are really discussed by the faculty as a whole.

Of course, the individual members of departments,

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whenever it concerns them or their field, they have large input and, of course their advice and suggestions are very important to the faculty.

But they do have meetings by themselves too.

Q And to the degree that there are meetings within individual departments would you comment on the relative participation of full time and part time faculty members, whatever meetings there are held of both full time and part time participating on an equal basis?

A No difference.

Q Both with regard to the departmental and the full time faculty meetings are decisions rendered applicable to both full time and part time faculty?

A Yes, they are.

Q Is that so in that regard to whether the majority of the individuals involved are full time or part time faculty members?

A Makes no difference at all.

Q Dr. Landman, who is the decisional making authority within the School and the University with regard to academic matters such as curriculum requirements, degree requirements and admissions standards?

A The faculty.

Q And the setting of such standards by the faculty are part timers and full timers -- would you compare the are currently full time faculty members were previously part time faculty members?

A Yes, quite a few.

Many of those that are on the faculty now full time started as part timers.

Q Was there any difference or change in their teaching responsibilities other than the number of hours when they changed from part time to full time?

A No.

Q With regard to the reverse, that is, are there any individuals who are now part time faculty members that were previously full time faculty members?

A Yes, there are.

Q I would ask your comments on the same question, that is, whether any differences in their teaching responsibilities other than merely the number of hours?

A Hours and salary, no, no other changes.

Q I notice that you have three full time faculty members in your school at the present time, Drs. Bernstein, Lewin and Feldblum.

Were any of those specific three previously part time faculty members?

A Well, Dr. Feldblum was and Dr. Lewin was.

I'm not sure about Dr. Bernstein.

He might have been some years ago but I don't know timers of your School are generally employed on a salary basis or on the basis of an honorarium, and if you do did not mean by the latter term tell us or indicate?

A I don't know what the technical difference is.

Q Using the term honorarium to indicate an individual who works not primarily for purposes of increasing his salary, but for purposes of receiving an honor such as an individual who takes on a faculty responsibility at a relatively insignificant salary of perhaps $500 or $1,000, in conjunction with his outside employment which may yield a far more significant salary, that is, his motive is not for purposes of increase remuneration but for purposes of honor and using this as the terms of an honorarium --

A As far as I know they all receive a salary.

The only exception might be Dr. Grinstein. .

I'm not sure, but the others are all on salary.

Q Is there presently an existence at Yeshiva Universit or at your School a University Senate or Faculty Council?

A We have an Executive Council of the Bernard Revel School.

Q And on that Council is there any difference between the status of full time and part time faculty?

A No.

Q Is there any difference in the role of full time and part time faculty in respect to curriculum development, degree requirement, selection of the department chairman or admission requirements?

A None whatsoever.

Q Would you compare the responsibilities of the full time and part time faculty in the development of the Institutional policies of the School and University?

A It is the same.

Q Dr. Landman, leaving the subject of part timers and turning to the managerial, supervisory and related authority of the faculty, let us say, a matter of interest arises to the faculty.

How does the faculty express its views on such matters?

A At faculty meetings.

Q How are decisions made at such meetings?

Is it by vote, by consensus or some other?

A Theoretically speaking, of course it could be by vote, but again because of the very small nature of the School it is usually arrived at by consensus.

Q Where there is a clear consensus of the faculty on the matter of interest in the School is that consensus effectively regarded as the decision?

MR. SCHECTMAN: I'm going to object to these questions now in that they are overbroad and asking for conclusions and there may be many matters of interest, be it anything from the war in Viet Nam to the funding of the Universities to office space for particular faculty members.

The question in such breadth, asking for such a general conclusion I think is improper.

MR. BODNER: I did intend by one of the phrases in the question to indicate with reference to matters affecting the school and therefore obviously excluding their decisions or their expression of views on things such as Viet Nam or the matters beyond the scope of the individual School.

But I have no objection to Dr. Landman making clear --

HEARING OFFICER: Cut it down specifically as possible.

I think you can avoid a lot of the objections.

Q (By Mr. Bodner) Dr. Landman, on the matter of example of curriculum, where there is a clear consensus of the faculty has that consensus ever been overridden by anyone in the School?

A Not to my knowledge.

Q Or by anyone in the University?

A Not in my time, no.

Q Is that consensus generally given the effect of a decision in terms of the School policies?

A Yes, it is.

Q Is the same true with respect to admissions criteria?

A Yes, it is.

Q And with respect to degree requirements, apart from the legal requirements established by law?

A Yes.

Q Has there in your six years been decisions made with regard to the introduction of new courses or the elimination of existing courses?

A Yes.

Q Could you give us an example of such a matter, describe how the decision --

A I can't remember the names of the courses, but if a professor wanted to give a course he presents this course to the faculty and the faculty then will listen to the course description and decide on the basis of need for such a course, whether it should or should not be given.

Q If the faculty decides that such a course should be permitted has it generally been permitted?

A Yes, it has.

Q If the faculty decides such a course is not needed or not be permitted is that decision also given effect?

A Yes, it has.

Maybe revised sometimes, there may be certain objections that the faculty has to a course such as overlapping or something of that nature, and if it is then revised it might be approved, or it may not be.

Q Let us turn to the individual faculty member, more specifically who determines how a class should be taught?

MR. SCHECTMAN: I object. There has already been significant testimony in this area as to conduct in the class.

MR. BODNER: No, I believe there was -- I don't recall significant testimony of this witness as to the role of the individual faculty member in the standards of his own individual class.

The previous few minutes were devoted to a discussion of the authority of the faculty as a group, in essence, and these questions really are dealing with the authority of the individual faculty member.

MR. SCHECTMAN: I will withdraw the objection as my recollection has been confused by the witness' testimony yesterday and the testimony of another witness who testified in that regard.

A - Well, it is completely in the hands of the faculty member.

Q Does the individual faculty member have discretion as to which students should be admitted into his class?

A Yes, he has.

Q Can an individual faculty member refuse to accept certain students?

A Yes, he can, for a cause.

Q But assuming he has valid reasons?

A Yes.

Q And he makes that decision?

A That's right.

Q Does the individual faculty member mostly have authority to decide within the range of classroom availability and student availability when the courses are to be offered?

A Yes, there is a form which we send out before the class schedules are made out asking each professor which courses he will give the following year and when he would prefer to give these classes, and within the framework of the School itself, and we have certain programs that are intertwined with the Undergraduate School.

If this is feasible we certainly follow what the professor wants.

Q And when the range of discretion, the decision is made by the individual faculty member?

A Yes, that is correct.

Q Just to make clear how broad or narrow is the range of authority between what hours can a professor offer a

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A No.

In other words, we don't determine that he has to do research in this particular area of his field, but it is up to him completely.

Q Is both the area in which he does research as well as the methodology up to the faculty member?

A Yes, it is.

Q This is true for full time and part time faculty?

A Yes, it is.

Q You also mentioned, Dr. Landman, in previous testimony that faculty members serve on various committees or serve as School representatives to various University bodies.

Does the School require the placement of faculty members on specific committees?

A Well, I don't know what you mean by require.

It is expected that a faculty member serve on committees.

Q But as to the choice of which committees or --

A That is up to the faculty.

Not every member of the faculty serves on a committee but he is required to serve if he is asked.

Q Dr. Landman, you have chairmen in your Schools; is that correct?

A Yes, we do.

CSA Reporting

Q Would you describe the role of the chairman in the hiring of full time faculty members?

A Well, he recommends candidates, names of candidates when a position becomes available in his field.

Q In his field, generally meaning his department?

A His department; yes.

Q Where the chairman makes a recommendation is that recommendation generally given effect in your experience?

A Yes.

Q Where his recommendation is negative are you aware of any instances where a faculty member has been hired over the negative recommendation of the chairman?

A Not during my time.

Q Would you tell us if there are any differences or if the same is essentially true with the hiring of part time faculty members?

A Exactly the same.

Q With regard to the chairman's negative recommendations, has it ever been overridden with regard to a part time faculty?

A Not during my stay.

Q Let us take one of the chairman in one of the larger departments, Dr. Lewin in the Modern Jewish History Department that is listed on Exhibit 139.

Do you recall within your approximately six years

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member spends?

Q No, if you can take the total work time of the chairman would you be able to estimate whether he spends clearly less than 50 per cent, more than 50 per cent or approximately 50 per cent?

A I would say less than 50 per cent.

The School is a very small School and the chairmen, really have very -- as chairmen they do very little in terms of time.

In other words, the recommendation of the chairman would come to the faculty and the faculty as a whole then would make certain decisions.

This is again due to the nature of the School but, of course, the recommendation of the chairman would be there and his time spent and I don't know how much it is, but certain years it is probably much less.

Q Are chairmen elected for specific periods of time?

A No.

Q For how long have the chairmen indicated on Employer's Exhibit 139 acted as chairmen, to your knowledge?

A Well, for a goodly number of years.

I don't know how many each one offhand, but I could check it out.

It's been quite a while.

CSA Reporting

Q Have any of them been there in the past six years in which you have been connected with the School as chairmen, to your knowledge?

A I think all of them, yes.

Q Do chairmen receive a stipend for their function as chairmen?

A No.

Q Do they generally receive a reduced course load?

A It is taken into consideration, yes.

Q Their chairmen functions are taken into consideration in terms of their work hours?

A Yes.

Q So that a chairman would hold full time status even though he taught less courses?

MR. SCHECTMAN: I will object to the question couched as again a possibility.

I would rather we have an exhibit.

We have chairmen listed and if he goes into specifics and I think that is what is relevant for purposes of this hearing.

MR. BODNER: I don't think this exhibit in any way speaks to one of the questions the Attorney for the Union generally asked on cross-examination and that is namely whether or not there is consideration given in terms of work responsibilities for assuming the role of chairmanship.

MR. SCHECTMAN: Mr. Bodner, we always ask that question, that is correct, but we always ask if any current department chairman have such status.

HEARING OFFICER: Stick to the specifics rather than getting into what could be or could have been.

I admit that there has been some during the questioning but if we can limit it it is going to be a lot more pertinent to the reader of the record than could be.

Q (By Mr. Bodner) With regard to the current chairmen of the Revel School, Dr. Landman, do they receive credit towards their work responsibilities as full time or part time faculty members, for their work as chairmen?

A I believe that it is true with Dr. Feldblum and Hyman and with Lewin.

Hyman may be receiving certain remuneration also, I'm not sure.

I really don't know for sure.

Q Remuneration for his chairmanship responsibilities?

A Yes.

I'm not sure of that.

Q Have there been instances in recent years, Dr. Landman, where the views of the chairmen on the hiring of a particular faculty member has differed from the views of the faculty in his department?

A Well, it really wouldn't happen.

The nature -- as I said before, the nature of the School is such that a consensus is reached.

If it isn't reached at a meeting it is reached at rump meetings where people get together and they work together and somewhere along the line there would be a give and take and a consensus will be reached.

MR. BODNER: Off the record.

HEARING OFFICER: Off the record.

(Discussion off the record.)

HEARING OFFICER: On the record.

MR. BODNER: No further questions at this time.

HEARING OFFICER: Go ahead, Mr. Schectman.

CROSS-EXAMINATION

Q (By Mr. Schectman) Dr. Landman, you indicated that you are the secretary of the faculty.

Is that an ad hoc position or it is a traditional and standing position with the faculty?

A Well, I don't know what you mean by traditional or standard position.

Q As long as you have been at Revel --

A I have had the same title, yes.

Q And you had that title when there was a Dean?

A Yes.

Q Do you receive any compensation or stipend or consideration for serving as Secretary of the faculty?

A Yes.

Q Does your position include certain administrative responsibilities?

A Yes, it does.

Q Will you describe those?

A I handle the day to day running of the School.

Q And that is true even with a Dean employed?

A Yes.

Of course the Dean also did. I assisted in this respect.

Q The listing of University administration in the catalogue of Yeshiva University indicates that Dr. Joseph A. Fishman is Acting Dean at the Bernard Revel Graduate School.

Dr. Fishman is a full time employee of the Universit is he not?

A As far as I know.

Q And has a new Dean been hired for the Bernard Revel School?

A Yes, he has.

Q Who is that person?

A Dr. Haym Soloveitchik.

Q Is a full time employee of the University?

At least six years.

Q Were they appointed to the faculty by the president of the University?

A As far as I know.

Q Is that normal and customary for full time faculty?

A As far as I know, yes.

Q What titles do they hold?

A Dr. Feldblum has a full professorship.

I think his title his professor of Talmudic Literature.

Q And Dr. Lewin?

A Dr. Lewin has a full professorship.

Q And Dr. Bernstein?

A I think Dr. Bernstein also has.

Q Could you run down the part timers listed and indicate their titles?

A Dr.Churgin --

MR. BODNER: Would you just note, Mr. Schectman, that it is on Faculty Exhibit 140.

MR. SCHECTMAN: I will withdraw the question.

Q (By Mr. Schectman) How are promotions made for the full time faculty from one rank to another?

A Well, the Dean recommends these I believe to the President.

Q And the President sends a letter appointing them to

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the higher rank?

A I think that is done.

Q Could you describe the corresponding process for part time faculty?

A I think it is the same thing.

Q Do you know if it is the same thing?

A Yes, in my own case, I originally began as an assistant professor and then became associate professor.

Q Did you receive a letter of promotion?

A Yes.

Q Was that from Dr. Belkin?

A Dr. Belkin.

Q Did this letter indicate that it was a part time position?

A Yes, it did.

Q Do your full time faculty hold University rank as professors?

Are they professors at Yeshiva University?

A Some are.

Q Are all of them?

A No.

Q Which ones are not?

A Well, the only one that is titled as University Professor is Dr. Hyman.

Q I'm sorry, you misunderstood my question.

Goldberg, there was a contemplation of not rehiring them and the Welfare Committee, including the Dean at the time discussed this matter quite fully and then spoke to Dr. Belkin, and subsequent to that they stayed on.

Q Have there been any such considerations made about not rehiring full time members of your faculty?

A Not rehiring?

Q Yes.

A You mean that they should not be rehired?

Q Yes.

A As far as I know, no.

Q In fact if a full time member of your faculty were tenured he could only be terminated pursuant to the procedures of the University's Handbook; is that correct?

A As far as I know, yes.

Q Is it not true that the University's Handbook and the policies set forth therein covering your faculty?

A As far as I know it does, yes.

Q In the academic year 1973-1974 were there any salary increases granted to members of your faculty?

A I really don't know.

Q That was the academic year before this past one.

A I know what you mean but I really don't know.

Q Do you know if your full time members got any?

A I really don't know.

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A I'm sure it was discussed but you asked me whether there were increases or not and I really don't know.

Q What is the work load for a full time faculty member at the Bernard Revel Graduate School?

A It is 12 contact hours.

Q And that would be four courses per semester?

A Four courses.

Q Those are two hour courses which are three contact hours?

A That is right.

Q When you refer to compensation for a course by a part timer for two hours that implies is three hours of contact hours, does it not?

A That is correct.

Q Does Dr. Michael Bernstein have a 12 hour load?

A Yes.

Q Does Dr. Lewin have a 12 hour load?

A No.

Q What is his load?

A I believe it is nine. I think it is nine.

Q And Dr. Feldblum?

A I think it is nine.

Q Dr. Feldblum?

A I think it is nine also.

Q On what account is their work load reduced?

A Well, the handling of dissertations, number of dissertations, participation in terms of chairmanships in some instances.

Variety of criteria that go into it, factors.

Q Does Dr. Feldblum necessarily have more responsibilities as a chairman than Dr. Bernstein?

A Yes, he does.

Q And in what regard?

A Well, theoretically speaking, they both have the same but Dr. Feldblum, being in the Bible Department, it is a very small department, whereas, the other one is a much larger one, so just by the nature of the department it would be more in terms of dissertations.

Q Do all faculty members have responsibility for dissertation committees?

A Yes, they do.

Q Do department chairmen have more responsibilities for dissertation committees?

A No.

Q Do any other members of your faculty have a reduced working load for their work on dissertation committees?

A Yes.

Dr. Agus for one. I am sure there are others.

Q So in fact the reductions in working loads for Dr. Lewin and Dr. Feldblum for instance are not related exclusively to their roles as department chairmen?

MR. BODNER: I would just object.

The witness specifically testified just a few moments previously it was related both to their chairmanship role and with their work with regard to dissertations and this was precisely the same question that was asked and answered.

HEARING OFFICER: Sustained.

Q (By Mr. Schectman) Does Dr. Hoenig have a reduced work load?

A Dr. Hoenig is a part time man now.

Q And Dr. Churgin you indicated does have a reduced work load?

A Dr. Churgin is a part time man.

Q So he does not?

A At present.

He has only two courses, I think.

Q So then is it correct that part timers are compensated only according to the number of courses they teach?

A That is correct.

Q While full timers may be compensated for the number of hours they teach and their equivalent in other responsibilities and duties?

A Well, the part timers are paid according to their

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HEARING OFFICER: Off the record.

(Discussion off the record.)

HEARING OFFICER: On the record.

Q (By Mr. Schectman) Is Dr. Hoenig being compensated at the rate of $1,000 a course?

A He is getting more as far as I know.

Q And Dr. Agus?

A Dr. Agus, I don't think he is a part timer.

HEARING OFFICER: He is University appointment.

THE WITNESS: He is a full timer.

Q (By Mr. Schectman) He is not paid out of any Bernard Revel Graduate School Funds or budget line?

A He may be getting -- I don't know how the budget is structured.

I don't see the budget, but maybe portions of it come through Revel, I really don't know that.

Q Do you know if other members of your faculty have ever seen the budget?

A Do I know?

Dr. Hoenig as far as I know is the only one and now perhaps Dr. Hyman.

Q And Dr. Hoenig would have seen it in his capacity as Dean?

A Dean. Not this year.

Q And Dr. Hyman?

A As Chairman of the Faculty Executive.

Q You indicated that the faculty had taken certain action with regard to the credits of your Ph. D. program?

A Yes.

Q Are any actions taken by your faculty with regard to academic crediting or major academic policies reviewable by Vice President Fishman?

A Reviewable? No.

Q As Vice President for Academic Affairs does Dr. Fishman have any authority to consider such policy actions by your faculty?

A Well, he can consider them but I don't know if he has any --

MR. BODNER: Objection.

I will just object. This witness cannot speak for Dr. Fishman's authority and we have had Dr. Fishman as a witness.

I believe he would be a more appropriate witness as to his authority.

HEARING OFFICER: Sustained.

t4 Q (By Mr. Schectman) How many dissertation committees are there, approximately, at the Bernard Revel School?

A Well, this past year we had an enormous amount because we had the DHL that was there for one year above

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A As far as I know only those things that were listed.

Q Do they need the permission of the Dean or the President of the University for this outside employment?

A I don't know.

Q Do you know if full time faculty needs that permission?

A I don't know that either.

Q Do you know if members of your full time faculty are employed outside of Yeshiva University?

A Only those that were listed.

HEARING OFFICER: The question was full time, not part time people.

THE WITNESS: As far as I know, no, but I mean --

Q Do full time members of your faculty take part in the health insurance program of the University?

A I really don't know.

Q Are they eligible to?

A I think they are but I don't know it.

Q Are they eligible to take part in the pension program?

A The same answer, I don't know.

MR. BODNER: If it will be of assistance to my knowledge they are eligible and absent any indication to the contrary, I would be prepared to state the full time faculty are eligible to receive health and pension benefits

CSA Reporting

MR. SCHECTMAN: That is not true for the part time faculty?

MR. BODNER: To my knowledge the part time faculty are currently not eligible to receive health and welfare benefits.

MR. SCHECTMAN: Including pension.

MR. BODNER: I meant health and pension.

Incidentally, the reason I use the term currently is there is and has been some discussion under way as to that and the only thing I can say currently is that currently they are not eligible.

MR. SCHECTMAN: There seems to have been many changes in the University since we filed this petition.

HEARING OFFICER: For the benefit of the faculty and who is going to complain?

MR. BODNER: I would hope this last comment was intended in jest.

If there was any change it has a long standing basis, far preceding the filing of this petition, without regard to the filing of this petition and has continued and will continue without regard to the filing of this petition.

Q (By Mr. Schectman) With regard to full time members of your faculty, Doctor, does their work load in terms of contact hours or the equivalent remain constant from year to year?

A In the years that I have been there I think it has.

Q With regard to part time?

A Except for Dr. Lewin who became a full time member during this period.

Q I'm talking as full time faculty?

A Yes.

Q With regard to part time faculty?

A Well, this may vary.

Sometimes a part timer may give an extra course, sometimes a course less.

For example, Dr. Hoenig gave one course last year.

This year he is giving two courses.

Q Can that vary according to student enrollment in certain courses?

A It is possible.

It hasn't really in the Graduate School because the uniqueness of the Graduate School again is such that the number of students -- the only time that a course has been canceled, if there are no students registered.

Q Is it within the discretion of the Dean to modify the work load of part time faculty according to the need for another course or for the decrease or elimination of a course that had been taught in the past?

A Not without consultation with the faculty.

Of course, as I said before, if nobody registers for a course, the course will be dropped.

Q And the part timer who had taught that course will not be paid for any such course?

A As far as I know.

Q Can you estimate the amount of time members of your full time faculty listed on Employer's Exhibit 139, the second column, spend at the Revel School weekly, on the average?

A Well, it certainly is the time that they spend in their classroom, plus visitation, student visitation which is a minimum of an hour.

I'm sure it varies, and the doctoral dissertations and meetings.

There are committee meetings or faculty meetings.

Q Do all members of your full time faculty have offices at the Revel School?

A As far as I know, yes, except for Dr. Bernstein who is an invalid.

He teaches from his home so when I say University, I don't mean the building itself.

Dr. Bernstein lives nearby and students go to his home.

Q Do the other members of your faculty have offices in which they do research work?

financial exigencies?

A I don't know the answer to it but I would imagine they both would be on an equal basis.

In other words, we hire our people with regard to need and the need is really that determines it.

I don't know if the finances are really at stake.

Q But if there were University policy in the Handbook on this question it would govern?

A I imagine it would.

Q You indicated that possibly Dr. Grinstein had an honorarium?

A Yes, I think so.

I indicated that I thought so.

Q What do you mean by an honorarium in that case?

A I believe he is teaching because he wants to. There is no financial remuneration.

Q So he is not receiving an honorarium fee?

A No, but the way Mr. Bodner described it was not necessarily with a fee but merely for the honor of the thing itself.

If I understood him correctly then my answer is correct.

Q You indicated that faculty may at times deny a student admission to a particular course or enrollment in a particular course.

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Under what criteria or what standards?

A Failure to meet certain prequisites.

Perhaps courses that might be missing or knowledge that might not be adequate for the particular course.

Q That would be for the best interests of the student as well, would it not?

A I think so.

Q Are there not University limits on when and where classes will be conducted?

A Limits?

Q For instance, as to scheduling, calendar and so forth?

A No. There are certain needs that the University has.

As I said before, we had, for example -- we have a BA-MA Program whereby undergraduate students can take courses both for the BA and for the MA so obviously because of these students certain courses must be given at certain times.

But even then there is a great amount of leeway and the individual professor's input and desires are certainly taken into consideration.

Q But the academic calendars of the University for instance would govern as to scheduling courses, would it not?

A Unless the individual professor absolutely cannot

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make a particular course and we have again, because of the smallness of the School, we sit down and we talk to them and find some time during that long day that we find a mutually agreed upon time.

Q And usually that would be done with the Dean?

A Well, I am usually the one who handles the course schedules and will sit down with the individual professor and we will work it out.

Q That is in your administrative capacity as secretary of the faculty?

A Correct.

Q With regard to University's holidays, for instance though, would that affect whether classes would not be offered?

A As far as I know we have never scheduled -- the Registrar's Office takes care of all of the holidays and blocks these dates out so we don't schedule anything.

Q Is there not an office at the University that indicates to you what classrooms and what space is available for teaching?

A Yes, but individual professors -- for example, in my own particular case I was scheduled for a certain room and I must have certain books available to me in my courses and only a particular room had those books, so I was reassigned.

Q You requested the reassignment?

A Did I request it? Yes.

Q From whom?

A From the office that assigns it.

Q What office is that?

A I think Blaizer's office.

I don't know what it is called.

Q Do you know his title?

A No, I don't know.

Q Is that the Building and Grounds Office of the University?

A I really don't know what his title is.

MR. BODNER: I think if I can clarify --

MR. SCHECTMAN: I think if we refer to the University catalogue in evidence, I believe it is Employer's Exhibits 22-A through E as annexed to Board's Exhibit 2, this will indicate that Mr. Jacob Blaizer is the Director of Buildings and Grounds.

Q (By Mr. Schectman) You indicated Dr. Bernstein is an invalid?

A Yes.

Q Accordingly his courses are conducted at his home?

A Yes.

Q He does not come to the University?

A That is correct.

Q Referring you then to Employer's Exhibit 139, in the column entitled "Full Time Faculty" do all other members of the full time faculty there listed regularly attend faculty meetings?

A Yes, they do.

Q Referring you to the part time column do all persons there listed except, of course, should there be an invalid or the like, do all these persons on a regular basis attend all faculty meetings?

A Well again, many of them attend.

Some attend more regularly than others but it is also true of the full timers.

They are absent at certain times.

Q But are they there on a regular basis?

A Pretty much.

Q Are there some part time faculty there on a most irregular basis?

A Even on an irregular basis --

MR. BODNER: Define your terms because the witness has testified it is essentially true part timers, and to use the term regularly and irregularly interspersed is only going to confuse the reader of the record.

Q You indicated that the full time members of your faculty, with the exception of Dr. Bernstein, referring to the second column in Employer's Exhibit 139 regularly apparently.

Q The faculty has chosen not to take some of them?

A Yes, to put them on committees.

Q Has chosen to exclude some from committees?

A That's right.

Well, exclude has the connotation of keeping out and it isn't that.

They have chosen to put certain ones and not to put others on committees.

Q With regard to hiring faculty is it not true that President Belkin has the final say in that regard?

A I believe that is true, yes.

Q When a member of the faculty is hired you indicated that it was a consensus of the faculty as a whole that he should be hired; am I correct?

A Yes.

Q You indicated that department chairmen may recommend someone for hiring?

A That is correct.

Q May other members of your faculty as well recommend someone for hiring?

A Oh, yes.

Q Do other members of your faculty recommend persons for hiring?

A At times.

Q How many part timers were hired last year?

A Last year?

Q How many faculty, how many new faculty were hired last year?

I'm sorry, how many new faculty were hired for the current academic year?

A I can't think of any right now.

Q So that the amount of time in hiring new faculty for this year spent in the last academic year would have been negligible; am I correct?

A Correct.

Q And you have indicated that one person has been hired for the coming academic year?

A That's right.

Q Can you estimate the amount of time you spent in that process?

A Personally?

Q Yes.

A I didn't spend any except -- all right, I take it back.

I was at one meeting when it was discussed at the Faculty Executive Committee.

I was also present at the faculty meeting when it was discussed.

Q So that would be a total of a few hours maybe?

A Something like that.

Q Were there any department chairmen involved in this?

A Yes.

Q And spending about the same amount of time?

A I imagine so, perhaps a little more.

In this particular case again Dr. Bernstein is the Chairman of the Bible Department and the man I'm referring to is a man of the Bible Department, so that of necessity much of the leg work was done by others, but it was with the consultation of the specific chairman.

Q Would it be fair to say that a department chairmanship at the Bernard Revel School is an honorary position?

A No.

MR. BODNER: I will object.

MR. SCHECTMAN: The witness has answered the questio

MR. BODNER: We will stay on his answer.

HEARING OFFICER: Repeat the question, please.

(The last question read by the Reporter.)

HEARING OFFICER: The objection was made after the answer.

The objection is somewhat mooted.

MR. BODNER: I withdraw the objection.

Q (By Mr. Schectman) Are there any formal meetings of departments?

A There have been, yes.

Q But there is no requirement from the Bernard Revel School, is there, that any one publish?

A No.

Q And there is no requirement in fact that anyone report the research that he is doing?

A No.

Q That is up to the discretion of the individual as part of his professional identity?

A That is correct.

Q How long has the basic rate of $1,000 per semester course for each part timer obtained, to the best of your recollection?

A How long ago it began you mean?

Q Yes.

A During the time that I have been here.

Q So it has obtained for six years?

A I think so.

Q Have there been changes in the salary of full time faculty in that period?

A I really don't know.

MR. SCHECTMAN: Rather than making an offer of proof by way of subpoena of the member of the full time faculty at the Bernard Revel School, I would like to request that the University provide some information on any salary increments that have been given to full time

No further questions of the witness.

MR. BODNER: I do have a very brief number of questions on redirect.

REDIRECT EXAMINATION

Q (By Mr. Bodner) Dr. Landman, has there been a relationship between the total work load of the full time and part time faculty members?

That is, taking the total work load involving teaching and their other responsibilities, the full timers in comparing total work time and part timers with the same ingredients, teaching, visitation, students, research --

A Yes, that is true.

Q You mentioned that there was some full time faculty -- I will withdraw that question because it deals with salary and I will inquire as to it.

Has Dr. Belkin ever hired any member of the faculty of Revel without the approval and recommendation of the faculty of the School, to your knowledge?

A Not during my time.

Q Where there was an individual to be hired and the faculty recommended this specific individual to Dr. Belkin, to your knowledge has Dr. Belkin ever refused to accept the recommendation of the faculty?

A Not to my knowledge.

PROCEEDINGS

HEARING OFFICER CHAIET: On the record.

The hearing in the case, 2-RC-16662, is resuming.

The previously scheduled dates were cancelled, February 24 and 25; the 24th due to other business handled by the Hearing Officer relating to the Board; and the 25th by mutual agreement of the parties.

MR. SHECTMAN: No. There was an illness. There was an illness of the witness.

HEARING OFFICER: Okay. Thank you, Mr. Shectman.

We are resuming today. We will go on the 19th also.

Off the record.

(Discussion off the record.)

HEARING OFFICER: On the record.

Are we ready to continue?

Mr. Kramer, would you call your first witness?

MR. KRAMER: Dr. Joseph Gittler, please.

HEARING OFFICER: Dr. Gittler, please take the stand.

Whereupon,

JOSEPH GITTLER

was called as a witness by and on behalf of the Employer, having been first duly sworn, testified as follows:

HEARING OFFICER: Be seated.

Rabbi Gittler or just Dr. Gittler?

THE WITNESS: Dr. Gittler.

HEARING OFFICER: Okay.

Would you give your full name to the reporter?

THE WITNESS: Joseph B. Gittler.

HEARING OFFICER: Off the record for a moment.

(Discussion off the record.)

HEARING OFFICER: On the record.

Mr. Kramer.

DIRECT EXAMINATION

Q (By Mr. Kramer) By whom are you employed?

A Yeshiva University.

Q What is your present position, Dr. Gittler?

A Dean of the Ferkauf School and university --

Q Dean of the Ferkauf School?

A Yes.

Q Does that have a full name?

A Dean of the Ferkauf School of Humanities and Social Sciences. Ferkauf School.

MR. KRAMER: Can we go off the record?

HEARING OFFICER: Off the record.

(Discussion off the record.)

HEARING OFFICER: On the record.

Q (By Mr. Kramer) Continue.

A And university professor of sociology.

Q How long have you been dean, Dean Gittler?

A Since September 1966.

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Q Before becoming a dean, what did you do?

A Right before?

Q Right before.

A Dean of Queensboro Community College of the City University.

Q Are you now a member of the faculty at the Ferkauf School?

A I am a member of the university faculty.

Q Would you explain what you mean by that?

A I have a university professorship of sociology.

Q Do you specialize in any particular area?

A Yes.

Q Would you tell us what?

A Sociology, ethnic relations, social change and sociological theory.

Q When did you last teach a course at Yeshiva College -- Yeshiva University?

A This last fall semester.

Q What course was that?

A Sociology of the Jews in the United States.

Q In what school was that course offered?

A It was a consortium that included the Ferkauf School and other schools in the City.

Q Just so the record is clear, Dean Gittler, that was -- that course was taught in the fall of 1974?

A Yes.

Q Okay.

I notice, Dean Gittler, the first colum of this exhibit is headed "Department."

Is your school in fact divided into departments?

A Yes.

Q Does the listing in this exhibit accurately state the departments that are -- that were in effect in the fall term of 1974?

A Yes.

Q Now, the second column of the exhibit is entitled "full-time."

How is that defined at the Ferkauf School? What does "full-time" mean?

A A full-time appointment is one who receives an appointment for the entire academic year.

Q What type of a load do full-time personnel have?

A They're supposed to have the equivalent of 12 credit teaching hours, 12 teaching credit hours per semester.

Q Now, in most situations, Dean Gittler, does the letter of appointment for full-time faculty members come from the president of the institution?

A Yes.

Q In the second column I note that certain of the individuals specified there have the appellation "chairman."

Are they in fact the departmental chairmen in those departments?

A Yes.

This is as of the fall of '74.

Q That's what the exhibit states, as of the fall of 1974?

A Yes.

Q Now, let's turn to the third column entitled "part-time." There are a number of titles: adjunct associate, adjunct professor, visiting lecturer.

A Yes.

Q And so on.

Would you explain to the Hearing Officer how these titles are selected, what basis does -- do faculty members receive these titles? That is, part-time faculty members.

A Yes.

Adjunct appellations are -- come from the various departments as recommendations to the dean if these adjunct appointments teach at any particular time -- in this instance, in the fall semester of '74 -- they're listed here as adjunct with the appropriate rank.

Q How is -- How do you differentiate between adjunct professor and adjunct associate professor and adjunct assistant professor and visiting lecturers and lecturers?

A Those that don't have -- Those that don't have adjunct appointments are appointed either as visiting lecturers or

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lecturers.

Q How is the distinction made? On what basis is this distinction made?

A The adjunct appointments are made, as I mentioned, through recommendation from the department. And, if we have teaching personnel who have not been recommended as adjunct appointments, they are then listed as visiting lecturers or lecturers.

Q What is the substantive basis for the distinction?

A The substantive basis are related to the criteria for these appointments. The criteria for adjunct appointments are individuals who have full-time appointments at other institutions but whom the department would like to use in various ways, including teaching.

Lecturers are those who don't have an adjunct appointment but have been appointed specifically as lecturers on a part-time basis.

Any other teaching personnel at Ferkauf School who do not have an adjunct appointment or a lecturer appointment ipso facto are designated as visiting lecturers if they teach.

Q Let's stay with the adjunct category for a moment, Dr. Gittler.

How is it determined whether an adjunct faculty member will be appointed as an associate, assistant, or full adjunct professor?

A If the individual -- if an individual is recommended for an adjunct appointment and his full-time affiliation in another institution is of professorial rank or the equivalent, then he is recommended as an adjunct professorship.

If his position or status in another institution is equal to associate professorship, then he gets an appointment as an adjunct associate professor; and so on, same thing with assistant.

Q Let's focus for a minute on lecturers.

How is the distinction made between visiting lecturer and lecturer, because those two terms are used on this exhibit?

A A lecturer is usually one who has a full-time semester appointment, but he is a part-time faculty member.

The -- A visiting lecturer is usually one who has an appointment during a semester, less than full-time during that semester.

Q There is one other term used in this part-time listing. We have a professor there listed as Dr. A. J. Tannenbaum, and after that it says Stone Saperstein, professor of Jewish education.

Would you tell us about that title, Dean Gittler?

A Yes.

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HEARING OFFICER: On the record.

Q (By Mr. Kramer) On what basis, Dr. Gittler, are part-time faculty members generally hired?

A A department will have X amount of money budgeted to them for part-time faculty to teach specific courses or other responsibilities and, on the basis of departments, specific course offerings for people other than full-time faculty. They are then hired to teach these specific courses.

Q Then it would be correct that they're hired to teach specific courses; is that correct?

A Or other supervision -- or supervision of graduate students' research.

Q Where does the -- or, from whom does the hiring letter generally come?

A For part-time faculty?

Q Yes, sir.

A From me.

HEARING OFFICER: On the exhibit, Mr. Kramer, under "full-time" column, there appears visiting professor.

MR. KRAMER: I am going to get into that.--

HEARING OFFICER: Okay.

MR. KRAMER: -- if you would allow me.

HEARING OFFICER: Yes.

Q Returning to this exhibit for a moment, Dr. Gittler --

which is appended to Board Exhibit 2 in this proceeding.

Would you tell us, if you know, what that document is?

A Yes.

These are the -- these are the bylaws for the Ferkauf faculty government.

Q Would you tell us, to the best of your knowledge, when this document was promulgated and by whom?

A The -- prior to 1965, certainly prior to 1966, I believe prior to 1965, a faculty committee worked up and devised these bylaws for faculty government at the Ferkauf School, which committee was then -- which was then submitted to the faculty -- the Ferkauf faculty at that time, and either modified, but ultimately approved.

It then went to the dean, and then to the president, and approved.

Q Now -- Go ahead.

A The document also includes, towards the end there, several appendices, and these appendices -- these appendices -- these appendices the dean included as he -- as he obtained them from the faculty meeting minutes since 1965.

Q Now, turning to page 3, Dean Gittler, perhaps you may remember a few minutes ago I asked you whether you were a member of the faculty of the Ferkauf School, and you told me you were a member of the faculty of the university.

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Under these bylaws, are you also a member of the faculty of the Ferkauf School?

A According to these bylaws, yes.

Q Now, are part-time faculty members members of the faculty for purposes of these bylaws?

A As associate members.

Q That is provided for on pages 3 and 4; is it not?

A Yes.

Q Now, what is the principal governing body, or governance body of the Ferkauf School?

A On academic matters, the faculty.

Q Would that be the faculty as a whole?

A Primarily the full-time voting faculty.

Q As a whole?

A As a whole.

By "a whole," you mean full-time faculty members?

Q Meeting as a whole.

A Yes.

Q Do part-time faculty members also attend those meetings?

A No, not -- very infrequently. Somebody might attend.

Q Are there regular meetings of the faculty?

A Yes, four times a year.

Q That is provided for, is it not, in the bylaws?

A I think so. Twice a semester.

Q Do you have the -- you have the privilege of calling special meetings, do you not?

A I do. And the -- I think the steering committee does too.

Q Would you tell us what types of matters -- and I don't mean now in broad conceptual terms, but in more illustrative particular terms -- what types of matters are dealt with by the faculty meetings as a whole?

A The -- almost at every faculty -- again, faculty meeting, or the faculty meeting as a whole, the faculty deals with all the matters that the various committees have dealt with prior to the -- to the general faculty meeting, if there is something to deal with.

The names of these committees would connote the types of things that the faculty deals with, such as --

Q Tell us what faculty standing committees there are.

A I hope I don't miss any.

Steering committee, welfare committee, promotions committee, library committee, research committee -- I can look here -- curriculum committee.

I think that does it.

Promotions committee, I beg your pardon.

Q You did mention, did you not, the committee on standards?

A I may not have. Committee on standards.

Q But there is one, is there not?

A Yes.

Q Now, let's get back to my question.

Would you give us some examples of the type of thing, things, that are dealt with by the faculty meetings as a whole?

A Yes.

Q Separate and apart, may I hadd, from welfare matters.

A Every new program, academic program, or any -- or every major change in an academic program, in the curriculum, is acted upon by the general faculty, for the faculty as a whole.

The general faculty also acts on basic academic standards of the school, such as foreign language requirements, such as degree requirements as recommended by various departments, after it goes through the curriculum and/or standards committee.

Another illustration would be that the general faculty acts on -- or has acted on the recommendation from the welfare committee on matters that they want to bring before them.

Is that enough illustration?

Q No. What other items -- putting aside welfare items, what other type matters are handled by the faculty as a whole?

A The faculty will act on changes in the criteria for promotions. if there are to be changes, since the '65 -- 1965 approval of the bylaws.

The faculty used to act on the actions of the research committee. Now that committee is somewhat dormant.

Q Would you explain why this is so, why you used the term "used to act"?

A The research committee was primarily concerned with the distribution of money to departments or individual faculty members for research pilot studies, seed money for research. And, since about '68 we haven't had any money.

Q When you did have money, what was the function of the faculty as a whole with respect to that?

A The -- I remember asking the research committee to set up criteria for the distribution of this research money, which they did. And I recall that the research committee brought these criteria to the faculty to get approval, to get action.

Q Now, you used the term "used to" in your testimony.

Did you use that because research funds have dried up?

A Yes. Ferkauf research -- Ferkauf funds for research.

Q Assuming those funds were to become available from Federal, State or other donee sources, would the research committee and the faculty as a whole have the same authority as it had in the past?

A No.

I said Ferkauf money. As far as Federal money is concerned --

Q Go ahead.

A I stated Ferkauf money. As far as Federal money, which comes usually, or only, through grants, that did not go to the research committee.

Q By Ferkauf money, you mean what?

A University funds.

Q Assuming such funds were to be made available again, would these committees still have authority?

A I would reactivate -- or the research committee would become reactivated.

Q It has not been stricken from the bylaws?

A No.

Q And the faculty as a whole would have the same authority as it previously had?

A Sure.

Q Would you give us some other examples of matters that are handled by the faculty as a whole?

A I --

Q Would they get involved in tenure decisions, promotion decisions, matters of that type?

A No. The promotions committee reports to the faculty its actions and decisions. The promotions committee would seek faculty action for criteria of promotions.

Q How about tenure?

A There is no tenure committee from the faculty. I appointed a tenure council, consisting of faculty, tenured faculty, and they evaluate individuals for tenure appointments.

But there is no -- there is no responsibility or obligation on the part of this tenure council, because the bylaws don't call for it, to report to the faculty at large.

Q Now, let's return for a moment -- you have told us that every change in program and every new program must be approved by the faculty; is that correct?

A Major change.

Q Major change.

Have you ever instituted a major change in program or a new program without obtaining the faculty's approval?

A No.

In furtherance to your question, the steering committee always presents to the general faculty meeting, or to the faculty at large, or on the whole, their slate or to the faculty at large, or on the whole, their slate nominees for members of the various committees, and the faculty, A, acts on these nominees, and, B, elects from

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the slate.

Q Dean Gittler, you have been dean since 1966. Have you ever implemented a new program or changed a program in major fashion without obtaining the approval of the faculty?

A No. And the curriculum committee.

Q You have told us that the faculty as a whole has functioned with respect to foreign language requirements.

What do you mean by that?

A There are -- there were and there still are foreign language requirements for all student doctoral candidates. The -- down the line. That means even before I became dean, the standards committee, I believe, was responsible for setting up a long consultation with the registrar and with other relevant parties -- and I use that term because I wasn't here at that time -- set up foreign language requirements.

Since I became dean, on more than one occasion, the standards committee sought to change these requirements, and the standards committee brought it to the general faculty for action, approval, modification.

Q Did the faculty approve?

A I remember one time the faculty told them to reconsider some things. Another time they did approve the recommendations.

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But it always depended for it to be implemented on the action of the faculty.

Q Did you -- Have you changed these requirements on your own?

A No, never.

Q Dean Gittler, do you feel that you have the authority to go out and change these requirementson your own without getting the faculty's agreement?

A I don't know, but I never did.

Q Not in almost ten years?

A Since '66.

Q I see.

Now, you have told us that the faculty as a whole passes upon degree requirements.

What do you mean by that?

A The -- X number of course credits are needed for a degree. Certain clustering of courses are needed for a degree in a given program. So, the -- these are illustrations of requirements.

These are brought to the curriculum and/or standards committee and ultimately brought to the faculty for action.

Q Dean Gittler, does the -- do the new programs or major changes in programs, the foreign language requirements and the degree requirements of your school, all taken together, affect decisions of students as to whether they will come to your school?

A I guess so.

Q You guess so, or it is your educated view that it is so?

A You want me to answer it my way?

Q Yes, please.

A I think students come to the Ferkauf School because of the programs offered, the content of the programs offered, and the faculty that we have.

It could be that, if we change a program, it may displease prospective students.

I have tried to see to it, but I didn't have difficulty that way, because I think the faculty thinks that way, that giving a student, while a student is in matriculation, if a program is changed, that he has the option of pursuing the program that was in existence when he first came.

Q That required faculty approval, did it not? You went to the faculty on that?

For him to stay to his old program. To be grandfathered, so to speak.

A No, we didn't have it. It was --

Q Go ahead.

A We didn't have to. I think it was my understanding that legally he is entitled to it.

A Yes.

Q Those requirements at your school are determined by faculty, is that correct?

A All academic requirements at the school are determined by the faculty or its subgroups.

Q Now, you have told us Dean Gittler, that the faculty has a steering committee.

Is that steering committee provided for in the by-laws that are before you?

A Yes.

Q That's found on page 8, is it not?

A Yes.

Q And the following pages.

Would you tell us, in your own words, however, what the steering committee actually does?

A Since I have been dean, the steering committee has performed two basic, if not only, functions and activities.

One is to -- is to provide, not on all occasions, provide the agenda for faculty meetings; and secondly to present the slate to the faculty for membership on faculty committees.

Q You have told us there is a standing faculty committee on standards, and that committee is provided for, is it not, on page -- pages 11 --

A No, page 12.

Q -- 11, 12 and 13 and 14 of the bylaws?

A Yes.

Q Would you tell us, Dean Gittler, what that standards committee has actually done while you were dean?

A The standards --

Q Give us some examples.

A Yes.

The standards committee played the major role in changing the foreign language requirements for degrees from what it was before they recommended the changes.

The standards committee, all through the years that I have been dean, has always acted on the items that I have submitted to them consisting of students seeking a waiver for degree recipients. The --

Q What do you mean by a waiver?

A If a B average is required for graduation, and a student has 2.9, and asks for a waiver, and gives the reason, and the department backs the student, and the department gives the reasons, it's -- it usually comes to me, and I send it on to the standards committee; and whatever they decide, that's what occurs, vis-a-vis the student's graduation.

Q Does that have an effect on whether the student may remain in school, or pay additional tuition to the school?

A If he doesn't graduate, and he wants to pursue his an important phone call at the desk.

(Recess taken.)

HEARING OFFICER: On the record.

Q (By Mr. Kramer) You told us, Dean Gittler, that departments have a role to play with respect to the admission requirements dealt with on page 12 of Petitioner's Exhibit 6, to Board Exhibit 2, and it states there that these requirements are grade point averages, examinations to be required for admission; and, to state some of them, passing scores on these examinations, interviews and recommendations.

Do departments establish these requirements?

A The way the thing -- the way these have actually developed --

Q That's what we are talking about.

A -- the departments decide who is to be admitted, given the candidates or the applicant's academic background, by programs and by departments.

Q So --

A So that generic requirements that this implies, if it implies that, for the school is not -- has not been practiced now.

Q To the extent those generic requirements are established, they're established by the departments, is your testimony?

A -- that how many of these credits acquired in another school would be determined by the department or the people in a given program in the department.

With this exception: that I believe there is an Albany requirement that says that not more than a certain number of credits -- and to be accurate I'd have to look it up -- not more than a certain number of credits can be transferred from an outside institution towards the degree at Ferkauf.

Q Who makes that determination at Ferkauf right now?

A Not more than?

Q Who makes the determination of how many credits are to be transferred, putting aside the Albany requirement? That's a maximum.

A The department.

Q That's members of the faculty?

A Yes.

Q Now, Dean Gittler, would the number of transfer credits to be afforded to a prospective transferee by your school as opposed to another school have an effect upon whether that student would come to your school?

A Yes. That could be very crucial, because, if a student can't transfer a certain number of credits, he may, in his mind, he may lose these credits, he may not come.

Q Now, on page 13 of this exhibit, under the heading to "course and program performance" are a number of factors from 1 to 10, which, according to the bylaws, are entrusted to the standards committee.

Are these items in fact entrusted to the standards committee, and, if so, which ones?

A Again, the standards committee may have played a role in setting up the grading system before I became dean. But the -- but the actual grading of the performance of an individual in a given course is by the instructor.

Q The system, however, was set up by the standards committee.

Would the standards committee be involved in a change in the system?

A Yes, in conjunction with the faculty and the registrar, probably.

We never changed the system since I was dean.

Q Could the system be changed without the approval of your own faculty?

A It's inconceivable.

Q Does the grading system employed by your school have an effect on whether students will come to your school, or not come to your school, as the case may be, or be allowed to stay in your school and pay tuition to the university, as opposed to being asked to leave?

A It will certainly play a role in whether he'd be allowed to stay in the school.

The grading system is not so much different from any other university; ergo, I don't know whether it would keep him out or not.

Q The course examinations are listed as a function of the standards committee.

What role would they play, if any, with respect to that?

A I don't know. The course examinations are primarily individual instructor, faculty member, or department.

Q And academic -- academic averages are listed?

A The academic averages -- there is an academic average that's required for graduation. These academic averages are school-wide requirements, down the line.

By "down the line," I again mean when the thing was first set up it was a matter of faculty in conjunction with registrar.

Q Who determines what academic average will suffice for graduation?

A The --

Q The school-wide standard you referred to?

A The average, that -- that was determined by standards, faculty and registrar all working in conjunction.

Q And could it be changed without faculty approval?

A It's inconceivable to me that the faculty wouldn't play a role. Certainly would be brought to the faculty, that change, prospective change.

Q Another standard item on page 13, under the heading "to course and program performance" is academic loads.

What role, if any, did the academic standards committee have to play with respect to academic loads?

A The standards committee didn't play a role in determining academic loads.

There are two aspects to academic loads. One constitutes the definition of what constitutes -- what constitutes a normal workload for faculty, full-time faculty member.

This was determined about three years ago by the chairmen of the departments in consultation with their respective departments and brought back to a chairmen's meeting.

That's normal academic loads. In terms of a specific load during any particular semester, this, one, varies from semester to semester; two, is determined intradepartmentally, by chairman, and chairman and his faculty.

Q In the absence of an agreement between the chairman and a particular faculty member, the chairman's decision, I assume, would control?

If I am wrong, will you correct me?

A Yes.

I know of several instances where individual faculty members would have liked to have taught less, but the position of the chairman prevailed.

Q Now, could this term "academic loads" as used on page 13 also pertain to the academic loads of students?

A Academic loads of students was determined also years back before I became dean.

And the -- and the normal academic load of students was -- was a joint decision, I think between faculty or its committee representatives and its committee and the registrar.

Q Are there academic load limitations at your school for students?

A Yes.

Q Would you tell us just briefly what they are?

A The normal load is 12 credits, which amounts to the equivalent of four courses, three credits in each course. A goodly -- some students exceed that, but they exceed that only with permission, permission consisting of recommendation from the department through its chairman to the dean.

Q Does the question whether a student may obtain permission to take an overload affect whether students remain in school or come to your school?

A It may affect their staying in school.

But coming to the school, I believe -- I am not sure of this -- I believe the catalogue says what the usual normal load of credit is.

Q By the way, Dean Gittler, your tuition is stated in what way?

A On the basis of per credit, 75 per credit.

Q That's for a matriculated student?

A Yes; for anybody who seeks credit.

Q Now, it also states that requirements of residence for doctorate, total time spent in studies and normal progression toward the doctorate is a function of the standards committee.

That's item .5 under A on page 13 of Petitioner's Exhibit 6 to Board Exhibit 2.

Is that in fact an area for the standards committee?

A I am aware only of the standards for normal progression toward a doctorate; and that is -- that varies with departments.

Q That is established by the departments?

A Yes.

Q Conditions of probation is next in this list.

What role does the standards committee have with respect to that?

A I am not aware of when or whether they set up conditions of probation, but the -- but there are school bases for probation, and that must have been set up also down the line by faculty and registrar.

Q What's meant by probation, Dean Gittler?

A Probation means that if they don't perform -- because of a performance of a given semester, they are taken -- at a subsequent semester they have to perform better, much better, in order to remain as a regular degree- pursuing student.

Q If they don't, I assume they're out?

A Then it may take the course of recommendation for dismissal.

Q These are faculty decisions, are they not?

A The recommendation for dismissal comes from departments.

Q And that comes from faculty members in the department, I assume; is that right?

A Yes.

Q And has --

A Chairman and faculty.

Q And has a financial impact on the institution?

A Those who leave are not paying.

Q Now, point 8 under item A on page 13 deals with enrollment and attendance in courses and withdrawal from courses.

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in a program that a department wanted to change.

Those are the main things.

Q Would it be fair to call this a rather active committee?

A Yes. That's an active committee.

Q Now, let's turn to the committee on promotions, Dean.

Is that committee still in effect?

A Yes; very active committee.

Q Would you tell us, as best you can recall, what that committee does?

A There are basic guidelines -- by guidelines is meant things to be considered or criteria for promotions -- set forth in the bylaws. That's a faculty decision.

The curriculum committee decided on the details of implementing these guidelines.

Q I would call to your attention, Dean Gittler, that we have in evidence, and I am placing before you at this point, Petitioner's Exhibit 12-A and 12-B to Board Exhibit 2, which is in evidence in this case, Board Exhibit 2 being the transcript of the earlier hearing, the first hearing in this matter; 12-A being entitled criteria and procedures for promotion as codified by the faculty committee on promotions; and the document 12-B being entitled guidelines for promotions, J. B. Gittler.

A Yes.

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Q Dated February 1970.

Would you consider with your testimony?

And you can make reference to Petitioner's Exhibit 6 and 12-A and -B in your testimony.

A Okay.

What does this mean, P-12-A?

Q Petitioner's 12-A it means.

A On Petitioner's 12-A, page 1, that constitutes the basic criteria that I have referred to and guidelines set up by -- set up by the promotions committee and the faculty for promotions.

Then I mentioned that the promotions committee has, from year to year, detailed in various specifics how to implement these basic guidelines for promotions.

The -- no one is considered for promotion unless a recommendation comes from a department. When a recommendation comes from the department for promotion, it goes to the promotions committee.

The promotions committee then evaluates the candidate on the basis -- on the bases of these basic guidelines plus the detailed specifics that the promotions committee has set up to further clarify and elaborate on these guidelines.

They discuss the candidate; they may call in the candidate; they may call in the chairman. They ask for all kinds of materials from the department on this candidate. And there is discussion, ultimately leading to a vote by the members of the committee.

The members of the committee consist of five voting members and two alternates. And it's a positive vote constitutes a recommendation for promotion of this individual. And this goes to the dean.

If the dean -- the dean agrees, it goes to the president, who ultimately makes the -- actually makes the promotional appointment.

Want me to go on?

Q Just want to focus for a moment.

With respect to this latter point, would you turn, Dean Gittler, to Appendix A to Petitioner's Exhibit 6 in evidence and, more particularly, to page 4, Item 2.

A You will pardon me. I don't know where you are.

Q Would you please turn to Petitioner's Exhibit 6, which is the bylaws, and, more particularly, to Appendix A of Petitioner's Exhibit 6 and to page 4 therein, Item 2.

It states that failure of the committee to support a departmental recommendation or appeal by individual faculty member, in such cases the committee must state its reasons for rejection, with the exception of cases of faculty members who have not been promoted for ten years; committee action shall be final.

Do you see that there?

A I don't find it, but I am aware of it.

Q No, I'd like you to see it and read it.

A Okay.

Q Now, I note, Dean Gittler, that, where other provisions of this set of bylaws have been revised, there are notations to that effect, does this provision that I have just read to you remain in full force and effect?

A I --

Q Just the one I read to you, it hasn't bee changed, has it, by faculty action?

A The committee, if it turns down a recommendation from a department for a promotion, does give its reasons to the department and, I think, even to the individual candidate.

I don't know of a case of a person not being promoted for ten years having come up during my time.

Q I am talking about that. The last sentence, about the finality of the decision.

A With the exception of cases of faculty members who have not been promoted for ten years, committee action shall be final.

Q And that provision has not been changed, has it?

A No.

Q And where the decision is negative, except for the

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ten-year caveat you have just read to us, the decision is in fact final?

A According to this, yes.

MR. SHECTMAN: No. The witness is not answering the question. The question was in fact final.

THE WITNESS: I think I answered it by saying I have never had a situation arise during my time.

Q Have they turned down people for promotion in this committee?

A Yes.

Q Have any of the people that have been turned down by this committee ever been promoted after they have been turned down?

A No. If that's --

Q Do you know whether this bylaw provision has ever been taken out of the bylaws by the faculty?

A No. It has not been taken out.

Q It remains in full force and effect, Item 2 on page 4 of Appendix A, is that correct?

A Yes.

Q Now, returning to Petitioner's Exhibit -- strike that.

Now, you told us, Dean Gittler, that where there is a positive or affirmative recommendation from this committee, it goes to you.

A Yes.

Q And I think your testimony was that, if you agree, it is then passed on to the president of the institution.

A Yes.

Q Is your agreement in fact required for someone to be promoted?

A Yes.

Q If you disagree, what happens?

A He would not be promoted.

Q Isn't there an appeal to the president, separate and apart from your determination?

A There could be; but, if there was appeal over my veto or rejection, he has never -- the president has never promoted anybody, if there was an appeal. And I am not aware of an appeal.

Q Would you please turn to Item No. 3 on page 4 of Appendix A to Petitioner's Exhibit 6, right below the one you were just looking at?

A On page 4?

Q On page 4 of Appendix A.

A Yes.

Q Item No. 3.

A Yes.

Q Would you read that, please, and over onto page 5.

(Witness complies.)

A Okay.

Q To your knowledge, has any faculty resolution been passed altering point 3 on page 4?

A No.

Q That provision would in fact allow the committee to appeal to the president directly negative decision of yours?

MR. SHECTMAN: I object.

The document speaks for itself.

MR. KRAMER: It does; and it says that.

I will withdraw the question.

Q Dean Gittler, you have been dean for nine years.

How many times have you reached a conclusion different from the promotion committee with respect to an affirmative recommendation?

A I beg your pardon? Tell me again.

Q How many times in that nine years have you disagreed with the committee with respect to an affirmative recommendation?

A Once.

Q So that in only one instance did you disagree with them?

A Yes.

Q In that instance, I take it, the person was not promoted?

A That's right.

Q But you have only had one occasion in nine years?

A Yes.

Q Otherwise, the recommendations of the promotion committee have been accepted, affirmative recommendations of the promotion committee, have always been accepted by you?

A Yes.

One thing has to be clarified. And that is that, if I remained neutral or abstained, that I am not defining that as disagreeing with the committee.

Q I understand.

Where you remained neutral or abstained, was the recommendation forwarded on to the president?

A Yes.

Q And it was forwarded on as an affirmative recommendation, I assume?

A Not from me; from the committee.

Q From the committee.

How many instances, percentage-wise, did you abstain in?

A Not more than two instances.

Q Approximately how many -- That's not a percentage, but I will take that answer -- approximately how many times did you join --

A In agreeing with the committee?

Q Right; and pass on your recommendation with the committee's to the president?

A I --

Q Approximately.

A On the assumption that we average two promotions a year, then it would be 18 times. But it may have been more than two. I don't --

Q By the way where you have joined the committee, has the president ever --

A "Joined" means agree?

Q In an affirmative recommendation, have those promotions been made by the president?

A Yes, in every instance.

Q In the situation where -- two situations, or approximately two situations in which you abstained, to the best of your recollection, was the appointment made by the president?

A Yes.

Q Do you know of any instance in which --

A I am sure of one. I don't remember the two.

Q Are you sure -- strike that.

Now, turning to the negative instances, do you know of any instance in which the promotion committee was negative in which a promotion was made?

I think you answered that already, but I think the record ought to be clear.

A No, I don't know of any instances.

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Q In other words, negative remained final?

A Yes.

Q Is that a yes?

A Yes.

Q Now, returning to Petitioner's Exhibits 12-A and -B for a moment, is it a fact that in actual practice, Dean Gittler, one of the criteria for promotion in your school is reliable and productive service on university, departmental and school committees?

A Yes.

Q That's something that's expected of faculty members, that they're supposed to do, if they're going to get promoted to higher position in the university?

A It's expected of them even if they're not up for promotion, especially if they're up for promotion.

Q That would include the standards committee, the curriculum committee --

MR. SHECTMAN: I object.

MR. KRAMER: I withdraw the question, because I think it's obvious.

MR. SHECTMAN: I agree.

MR. KRAMER: Delighted to have that stipulation on the record.

Q Who determines who is to be on the promotions committee?

First it constitutes a recommendation from the chairman and/or the department to me. The assumption is that they have gone through, evaluated, a number of candidates, interviewed some, maybe all of them. And ultimately it becomes a recommendation to the dean.

Then, when and if I agree, I ask for an appointment to be made by the president of this individual recommended by the department.

Q Now, would you tell us the role of the departmental chairman in the hiring process?

A I --

Q If those roles vary, would you give us an understanding for the spectrum of roles that may be played?

A I am most familiar with the relationship of the department -- of the chairman to the dean, less familiar of the relationship between the chairman and his faculty in the departments.

But I am aware of the following:

In most instances regarding intradepartmental operations and procedures between faculty -- and procedures in the department, including the chairman and faculty, I get -- I know of very few instances, if any, where the recommendation of a new appointment,for a new appointment, by a chairman, would not -- would not include the chairman's consultation, interviews, by members of his department of prospective people.

Q Now --

A Faculty members.

Q Now, Dean Gittler, in bringing your new faculty member, full-time faculty member, aboard, one has to determine what rank h[illegible] receive.

A Yes.

Q How do you go about doing that? How is that done?

A There are several things.

First, the item in the budget, which expresses itself in monetary terms, is the major determinant of the rank, because we have a -- we have a salary schedule by rank. So, if there is X amount of money available for the appointment, this X amount of money falls into rank Y. And then the appointment has to be in that area for that money.

Q There is some discretion, I would assume, in where one places a new faculty member?

A I don't think I --

MR. SHECTMAN: I will object to the wording of the question.

MR. KRAMER: I withdraw the question, counsel.

Q Is there some discretion, Dean Gittler, in where a new faculty member will be placed; or is it an absolutely automatic proposition?

A No, it's not automatic in the following sense: that I -- we may have, or there may be more money than an appointment for a given rank, like -- such as assistant professor, may be money for an associate professor, but an applicant or a candidate may be -- may be preferred by the department, and his background warrants assistant professor's appointment, so that they will not appoint, even though there is money, in the associate professor rank.

Q That determination is made by whom?

A It comes up that way, in most instances, from departments.

Q In other words, it's the department, the faculty members themselves who decide whether this new hire will be an associate or assistant professor, and where he will be placed on the salary scale; is that right?

A Yes.

I may raise questions about his deserving to be in a given rank. But, from my experience, they have always come through with the recommendation in a given rank.

Q Does the department chairman play any special role in connection with this?

A The department chairman is the administrator in his department, and -- and if you will allow this pretense of erudition -- administration means administrary steering. He leads, he steers, and he influences in almost every instance. So he plays a very significant role that way.

Is that what you mean?

Q I think that answer is adequate.

Dean Gittler, have you ever approved the appointment of a faculty member who was not recommended by his department?

A No. No.

Q Have you ever approved the recommendation of a faculty member who was opposed by the department chairman?

I am talking about new full-time faculty members in all of this discussion.

A Recommended by the department, but not recommended by the chairman?

Q Yes.

A I know of no such instance, no.

Q Have you generally appointed the new faculty members who were recommended for appointment by the departments?

A There were one or two -- generally, yes. More than generally, yes. Ninety-eight percent of the time.

Q Now, has the president of the institution ever vetoed any of these appointments?

A No.

Q For that matter, has Vice President Fishman vetoed any of these appointments, new appointments; in other words, once they were chosen and recommended up the line?

A It's a matter of just last year. No.

Q And Vice President Fishman had a predecessor, did he not, several years ago?

A Yes.

Q Did he ever veto any of these appointments?

A I don't think we made appointments during his vice presidency.

Q Has the board of trustees ever vetoed any of these appointments?

A No, not at the Ferkauf School.

Q The departmental chairmen, Dean Gittler, how are they selected or appointed?

A It's a recommendation from the department to me, and from department faculty to me.

And, until recently, I made the final decision. Actually, I was supposed to ask the president to appoint the chairman.

Q As a practical matter, he does not do that, does he?

A He didn't do it, no. I just went ahead and appointed him.

Q Do you know Professor Martin Miller?

A Sure.

Marty Miller, you mean?

Q Marty Miller.

A Yes.

Q He is a department chairman, is he not?

A Yes.

Q Which department?

A Special education.

Q Is there a course reduction that comes with that appointment?

A Yes, a workload reduction.

Q Would you tell us about that, please?

A A chairman in a department at the Ferkauf School is entitled to a reduction of half of his workload.

Q Why is that, Dean Gittler, if you know?

A Because of the work duties and responsibilities of a chairman that consumes time that the ordinary member of the -- non-chairmen member of the department is not involved with.

Q Now, Dean Gittler, is there such a thing in your school as the council of department chairmen?

A Yes.

Q Would you tell us how that body, which is not provided for in the bylaws --

A That's right.

Q -- of the faculty came into existence, and then what it does?

A Starting in October 1966 or thereabouts I instituted these regular and semimonthly -- on the average, semimonthly meetings of chairmen with me.

It's a -- it isn't frequently referred to as a council. It's the chairmen's meeting.

What it does was your question?

Q Yes. What goes on in these meeting, Dean Gittler? What's the function of this group?

A Since the chairmen's group or council was instituted, I'd be hart put to think of anything that is -- that is introduced, innovated or anything that has to do with the welfare of the school or departments that isn't discussed at the chairmen's meeting.

And that isn't decided by the -- at the chairmen's meeting, other than those items that have to go to the faculty. But even those that have to go to the faculty go from the chairmen.

Q Putting aside for the moment the kind of items that have to go to the faculty, and you have discussed many of those with us this morning, would you give us five or six examples of the kind of things that are decided in the chairmen's meetings that you just referred to that do not go to the faculty?

A Okay.

Up to recently -- and I will account for why we don't do it recently -- up to recently, at budget time, I took up with the chairmen every aspect of the budget and the breakdown and the distribution of the budget for the Ferkauf School.

The reason I haven't done it in the last two years, although again they're familiar with what goes on in the budget, is that there literally has not been any modification or alteration in the budget in the last two years from the previous years, in terms of the amount of money that we have --

Q Why is that, Dean Gittler?

A Didn't get more money.

Q Assuming that our times were to improve in this country and money was to become more available, is there any reason for the procedure to have changed?

A That I -- that I employed before?

Q Yes.

A No.

I might point out this: that, notwithstanding the financial exigencies of the university, I prevailed on the vice president and the president for additional appointments, additional new appointments; and who was to get what appointments was decided by the chairmen.

Q Would you tell us -- so that the chairmen would continue to have this budgetary role that you talked about assuming there were some increase in the funding levels?

He can't take a shake of the head.

A Yes.

Q Now, give us some more examples of the kinds of things decided by the chairmen.

A I --

Q In this meeting with you.

A Up to recently the chairmen would be asked where they stood on a departmental individual recommendation for an appointment.

Q What does that mean?

A That means this: that a department -- that, if department A recommended a specific individual for an appointment, I would have that department chairman bring to the chairmen's meeting his vita, his background, his reasons for the departmental recommendation. And I would seek the various chairmen's reaction to that particular recommendation.

Q What did you do with that input, Dean Gittler? What use did you make of it?

A In -- I am unable to recall instances when the department chairmen, other than the particular department chairman who is recommending an appointment, where they disagreed with the particular candidate.

When this particular candidate was not appointed, it was mainly due to the department -- the department chairman who's recommended this candidate, it was really resulted in, after the discussion, the department chairman withdrawing that particular candidate.

Q That's the reality of the process, is it not?

A That's the way it occurred.

That was very infrequent. Most times the recommendations were such where it met consensus and agreement with the other departments.

Q Now, in addition to these items you have given us, could you give us a couple of more examples of the kinds of things that are decided in that meeting?

I assume not all of them are major items. There must be some minor ones as well.

A It's at the chairmen's meeting that the initial call and then the discussion for course offerings for subsequent semesters -- the initial call is made and discussed.

It's at that -- it's at that meeting that chairmen report on -- on how they plan to use their money for the part-time people.

At the chairmen's meeting the chairmen -- I ask the chairmen to act on the draft of the academic calendar that the registrar submits as a draft.

Frequently -- I don't know about frequently, but almost every year there's been a modification by the chairmen of the academic calendar that the registrar submits;

and the modifications have almost always prevailed.

It's at the chairmen's meeting that much, much discussion takes place relative to interdepartmental course offerings.

By interdepartmental course offerings, I mean students in department A enrolling in courses in department B for the student's program; so, there is that exchange and interaction.

Q What role, if any, Dean Gittler, has the department chairmen's group had with respect to tuition increases?

A Oh. The -- When I had an idea that tuition should be increased, I always brought it to the chairmen. And I did not make the recommendation to the top administration for tuition increases unless the chairmen agreed with it.

But very frequently the chairmen are the ones that came up with all kinds -- with ideas about increasing tuition, and not just tuition across the board, but right now we are in the process where the chairmen are recommending diverse tuition for students in different programs. And that's coming from departments, through chairmen.

Q Professor Miller is a chairman today?

A This year, yes.

Q Is he involved in this process you have just been describing to us?

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exhibit, and we will at the next session of this hearing produce a revised version of that exhibit as a substitute therefor.

HEARING OFFICER: Okay.

Do you want this one back?

MR. KRAMER: I'd like the number held open.

HEARING OFFICER: The number will be held open for the substitute exhibit.

(Document heretofore marked Employer's Exhibit 145 withdrawn.)

Q (By Mr. Kramer) Did you find out whether Dr. Shapiro is eligible for fringe benefits, such as Blue Cross-Blue Shield, major med?

A Yes, he is eligible, but he isn't on it.

Q He would be eligible to the same extent as other full-time faculty members?

A Yes.

Q Whether he makes use of it or not is his affair, of course.

A Yes.

Q Part-time faculty members are not eligible for such benefits, are they?

A No.

Q Now, you told us about the department heads' group or department chairmen's group.

Do you also have a council on tenure?

A Yes.

Q Would you tell us, is the council on tenure provided for in the bylaws, Petitioner's Exhibit 6?

A No.

Q Would you tell us about the council, how it came into being, who it consists of, and what it does?

A Tenure appointments used to be made by chairman to dean to president. The evaluation was primarily a departmental evaluation.

When I became dean, I instituted this council, dean's council on tenure, and all the tenured faculty at Ferkauf are members of the council on tenure.

Q Approximately how many members are there, Dean Gittler?

A I will tell you in a minute.

Twenty-one, as of the fall semester.

Q Do those include all the tenured faculty members at your school?

A Yes.

Q Now, what is it that transpires at a meeting of this council?

A A faculty member who has been fully employed as a full-time faculty member at the university comes up for his -- for seven years -- comes up for -- when he comes up for his eight-year reappointment, has to come up as a tenure appointment. And so those faculty people whom the department wishes to retain after the seventh year, those faculty members are evaluated by this tenure council.

Q Before we pass on, Dean Gittler, you said that those faculty members the department wants to retain are evaluated by the council.

Is there first an evaluation in the department?

A Yes.

Q Would you tell us about that?

A The -- I know through the chairman of a department that the faculty -- that the faculty in that department wishes to retain this faculty member. And the kind of evaluation that goes on in the department I am not familiar with the details, and it varies from department to department.

Q But the faculty member would not be considered by the tenure council unless he or she was first approved and recommended by the department; is that so?

A That's so.

Q Now, let's assume there is a recommendation by the department, what format does that recommendation take?

A The chairman sends a recommendation to me.

Q In writing?

A In writing.

I convene the council on tenure.

Q What does that recommendation look like in a typical case? What can we visualize here?

A A letter from the chairman giving his reasons and his rationale for his recommendation of this individual for eighth year tenure appointment. And he -- it's usually a detailed letter that goes into his teaching effectiveness, his research activities, his publications, et cetera.

Q His activity on committees?

A And activities on committees.

Q Would you continue the deliberations of the council?

A And I convene the tenure council, which consists of all the tenured faculty of Ferkauf.

This tenured -- this council on tenure has a committee on initial screening and evaluation. I appoint the -- the council wanted me to appoint the screening committee, so I appoint from the council, I appoint five members to the screening committee, one from each department, with the exception of the member -- with the exception of a representative of the department in which the candidate is coming up.

Now, this screening committee goes through a very, very extensive and rigorous evaluation, amounting to his -- almost his total academic history, including his performance and his involvement in every one of those cate-

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gories that you happen to mention just previously, whatever documentation there is on his teaching effectiveness, whatever information we know about, his participation in student dissertation supervision, whatever information we can gather on his publications, whatever -- so on, his membership in committees.

And sometimes, but rather frequently -- I mean, maybe almost always -- the screening committee will either by themselves or ask me to make contact with some top people in the given substantive area, discipline, of this candidate to see what their opinions and posture is relative to this candidate.

Now, this screening committee gathers all this information, and then they make their recommendation to the tenure council, which I convene after that when they are ready.

Q What happens then?

A Then the tenure council discusses the -- whatever the screening committee presents.

Sometimes it has asked the screening committee to look for additional information.

But finally the tenure council votes by secret ballot the recommendation for a tenure appointment.

Q Do you vote?

A No. I chair.

Q All right.
When the secret ballot vote is completed, what occurs?
Assume it's favorable now.

A Yes.
Then in almost every instance, except one, through the years -- since '67, since it was a year after I came, in every instance with the exception of one -- let me see if that's a correct statement -- yes, in every instance except one, I then made the recommendation to the president for a tenure appointment.

Q Were your favorable recommendations all accepted?

A Yes.

Q All right.
This -- This "except one" that you have told us about, where apparently the council recommended yea, and you felt differently --

A Yes.

Q -- would you tell us what happened there?

A The recommendation from the council to me, while it constituted a majority vote, was, one, a very close vote; it wasn't a clear-cut -- we'd like unanimity; it wasn't a clear-cut vote.
After that, before I made a final decision, I went back to the department and asked them to elaborate on their recommendation. And the department in this instance,

when I went back to them, whatever the motivation was before, the majority of the department either voted -- did not want him to have tenure, or they abstained.

Q Then what happened?

A And so I did not recommend the tenure appointment.

Q Did the -- was there -- you did not recommend a tenured appointment to the president?

A That's right.

Q Was there a dissenting voice expressed to the president by the council?

A No.

Q And the faculty member involved was not appointed?

A No.

Q By appointed, I mean he wasn't granted tenure.

A Yes.

Q Approximately how many affirmative recommendations have there been by the tenure council during the time you have been dean?

Obviously, you can't be exact, but give us your best estimate.

MR. SHECTMAN: I am going to object to the question, because I believe its terms are inconsistent.

I am not sure the testimony has established that this tenure council has existed since the witness has been dean.

MR. KRAMER: Excuse me.

Q How long has this council existed?

A I brought it into being, I think, a year after I became a dean.

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Q Now, will you answer my question with that caveat?

A A minimum of ten.

Q That's the lowest number that you can estimate?

A Yes.

Q Now, have they, during this period of time you just indicated, come up with any negative votes on tenure?

A Yes.

Q Approximately how many of those?

A Let me think.

Between three and five.

Q All right.

Have you reversed any of those negative recommendations?

A No.

Q Have any of those people who were not recommended been appointed to tenure? Have any of those people who have not -- who were not recommended been given tenure?

A No.

Q They weren't given tenure by the president of the institution?

A No.

Q By the board of trustees?

A No.

Q By the way, does the president of the institution make his own independent investigation of an affirmative tenure recommendation?

A No.

Q Or are they just approved routinely.

A I don't know about routinely. He takes my judgment. He may ask me a question or two.

Q You in turn accept the recommendations of the council?

A To the extent that I mentioned.

MR. SHECTMAN: I am going to object, in that council for the university has been repeatedly leading this witness. He's been given questions with assumptions, expressed and implicit, as he did last question.

I would request that counsel for the university redefine some of the questions or, in the future, ask the questions without this leading nature.

And will not ask for a ruling, but will just leave the statement on the record.

MR. KRAMER: Mr. Hearing Officer, I can't let the statement go unanswered.

I think whoever reads this record will see we have not been leading this witness. To the extent any leading has been going on, it has only been to the extent of sum-

Now, in addition to the department chairmen, do you have program directors at your school?

A Not for every program, but for some.

Q All right.

Would you tell us, first, what a program is; and then what a program director is?

A Yes.

Q And does.

A A program consists of a series of course and other sub-requirements in the pursuance of a degree in a given conven-stantive academic area, which is a subarea of the tional disciplines, such as social psychology would be a substantive academic area in sociology; clinical psychology would be a substantive program area in psychology.

In special education there is a program in mental retardation, so on.

Q Now, what is the function of the program director in those programs where you have a program director?

A Program directors are unofficial directors.

By unofficial directors is meant that they usually de-constitute the leadership of the program in a given department, and they are usually appointed by the chairman in consultation with other members of the department.

His function varies from director to director, from program to program.

In some instances, in some programs, they have almost full authority insofar as devising the requirements for that program, for admitting students to the program, along with the other faculty in that program.

They have -- they usually devise -- they usually select the fellows in that program, if there are fellowships.

That's an illustration.

Q By fellowship you mean what, Dean Gittler?

A We have at the Ferkauf School three -- what is known as three training grants from the government: one in clinical psychology, one in special education, I think primarily in the program of mental retardation, and we have a training grant in school psychology.

Now, these training grants have X proportion of the grant allocated to fellowships.

Q Are the fellows employees, or are they students?

A They're students.

Q All right.

Now, in special education, do you have several programs?

A Yes. Mental retardation, and one on dash disabilities; I forget the exact term.

Q Are there any program directors in that department?

A There is not clear-cut as some others. And I usually -- I usually interact primarily with the chairman in that department.

Q Who decides whether there are to be program directors?

A The chairman and the department.

Q In the case of special education, the chairman is Professor Miller; is that correct?

A Yes.

I don't appoint program directors.

Q Do you have sabbaticals in your school?

A Yes.

Q Who makes decisions about whether a faculty member will or will not receive a sabbatical?

A A faculty member is entitled to a sabbatical on a -- a full-time faculty member is entitled to a sabbatical after, usually, six consecutive years of full-time service. The seventh year I get a recommendation from the chairman for sabbatical for an individual in his department.

And, coupled with that, comes a detailed memo on his plans for sabbatical.

And I make the recommendation to the president.

Q Have you ever granted a leave -- by leave, I mean a sabbatical leave -- without the recommendation of the department chairman?

A No.

Q Now, do department chairmen have secretaries?

A Departments have secretaries. They're usually in the chairman's office.

Q Do they work principally for the chairman, in most situations?

A And the department.

Q I asked you principally.

A I don't know.

Q All right, you don't know.

Does the chairman have authority to direct the secretary?

A Yes.

Q To determine if there is a dispute or a problem of allocation, who that secretary will work for?

A I would take the chairman's recommendation.

Q All right.

A If there is a dispute.--

Q If the secretary does not do the work the way he or she should, does the chairman have the authority to reprimand that secretary?

A Yes.

Q And, if the secretary is sufficiently deficient in a chairman's view, to recommend her termination?

A Well, after X period of time she cannot be terminated because of the union affiliation.

Q Except for cause?

A For cause.

Q Does the chairman have authority to recommend to you the termination for cause?

A Yes.

Q And would you generally accept that recommendation?

A Yes.

Q Of course your decision on that recommendation would be subject to review under the union contract; is that correct?

MR. SHECTMAN: I object.

It's entirely leading -- this entire line of questions has been leading, as has most of the questions counsel has been putting to this witness.

MR. KRAMER: I don't think we are leading anyone in any way that would do any harm to this very long record.

It's quite obvious there are secretaries. The witness has testified, without any significant degree of leading --

MR. SHECTMAN: I object to the summary of the testimony. The testimony speaks for itself.

I am not asking for an argument on the merits.

MR. KRAMER: I don't think, Mr. Shectman, that you are the Hearing Officer.

I find it very unfortunate that you interrupted me in the middle of my sentence. I would appreciate it, counsel, if you wouldn't do that again.

I am not leading the witness in any way that's objectionable. All we're trying to do is get the facts in this record as quickly as possible on a point that I think is quite obvious.

HEARING OFFICER: As you both know from previous practice before the Board, that the trial rules before the Board are somewhat lenient.

And, though there may be some leading in the questioning by counsel, this point has been gone over in previous testimony, it is not something that I feel is going to affect the record to the extent that we need it stricken or anything of that nature.

I will overrule the objection.

But that does not mean that I am giving an open hand to overt leading questions.

MR. KRAMER: I understand.

Q (By Mr. Kramer) Dean Gittler, the discharge of a secretary would be subject to arbitrable review; is that correct?

A Yes, I think so. I would have to consult if a case came up.

Q Are there any assistant or associate deans at Ferkauf?

A Right now?

Q Right now.

A No.

Q And he was not dismissed?

A As of now.

And I so informed the department that I will go along with the council. But I gave them an opportunity to meet with me and talk with me.

I met with the members of the -- all the members of the psychology department, and they seemed to still insist that he should be dismissed.

So, I said then we will have another meeting of the entire psychology faculty along with the council on grievances and appeals.

And I so informed the student, and asked him whether he wants to appear again. He said he prefers to talk to each individual faculty member in the psychology department.

And this is where it stands now. It stands where he is not dismissed, and that he is in the process of meeting with the members of the psychology department.

Q You have told us, Dean Gittler, about how new full-time faculty members are hired.

Could you tell us how part-time faculty members are hired?

A Part-time faculty members usually are hired by recommendation from the chairman of the department whom he consults; I assume that he consults the program directors and the members of the department.

Anyway, I get a recommendation from the chairman of the department for individual A to teach course X for so much and so much money.

This is -- and it's almost always a formality for me.

Q The so much and so much money that you just referred to, how is that determined?

A Each department, after we discuss it at the chairmen's group, each department will receive from me a statement that they have so much and so much money for part-time faculty. And then they distribute it; they break it up as they see fit.

Q Have you ever vetoed --

A A part-time recommendation?

Q Yes, sir.

A No. Only if I didn't have money.

Q Would you say, then, that you generally approve those recommendations?

A Yes.

Q You have told us that part-time faculty members do not regularly attend -- or, you said infrequently attend, I think that's closer --

A Hardly ever attend.

Q -- faculty meetings.

Are they invited?

A Yes.

Q Do part-time faculty participate in departmental meetings?

A It varies from department to department. Of those departments -- I know some departments where they attend faculty -- departmental faculty meetings regularly, but not necessarily all of them.

Q What is the situation in the psychology department, if you know?

A In psychology, I know of some part-time faculty members, especially those who have taught part-time over a period of years, I know some of them who attend regularly departmental meetings.

Q And in the Jewish education department?

A In Jewish education they, to my knowledge, I think they almost always attend; not all of them, a goodly number of them.

Q And in the department of curriculum and instruction?

A I don't know, except now and then I am aware of it.

Q Dean Gittler, were part-time faculty members consulted with regard to the appointment of a departmental chairman in the psychology department?

A The department makes its recommendation to me. And I know some instances they were consulted by the full-time members of the department.

Q Would that be so with respect to the psychology now part-time. He used to be full-time.

Q That's not what I am asking you. I am asking you whether -- give us any examples of courses now taught by part-time faculty that were previously taught by --

A Skaist is one, another.

Q Courses.

A Yes.

Q His status has changed as well?

A He is part now. He used to be full-time.

Q You have a double change there. The course has gone from part-time -- from full-time status to part-time status, and the faculty member has also gone from full-time status to part-time status?

MR. SHECTMAN: I will object.

I haven't heard any terminology before about a part-time course and a full-time course. I don't know what is meant.

HEARING OFFICER: If you can clarify it.

I understand your objection.

MR. KRAMER: I am not going to clarify it at this time, because I am going to ask a series of questions.

The questions, as you know, Mr. Hearing Officer, come in two parts: one, courses that were previously taught, and the other where the status of the individual has changed.

one who is appointed for a semester, or for -- or on a per-course basis.

Bebber is appointed -- is one who has an appointment by semester, not by course.

Those who have an appointment on a semester basis teach full-time each semester.

Q Putting aside Professor Bebber for a moment, how are the salaries of the other part-time faculty members -- and "salary" may not be the right word -- but how are the salaries of these other part-time --

A The remuneration?

Q Remuneration.

A On a per-course basis.

Q Is there a scale, or is it a negotiated matter?

A Each department has a scale, a different scale.

Q Who establishes those scales?

A I inherited those scales.

Q Do you know where they found their genesis?

A How they found their genesis?

Q If you don't know, you don't know. If you do know, tell us.

A The scale has increa[illegible] that which I inherited, but it varies by inheritance.

Q You told us that the scale increased from the one you inherited --

A In some departments.

Q Would you tell us how that came about?

A Yes.

In Jewish education the part-time people who were paid on a per-course basis received the lowest remuneration for their courses.

I have been constantly trying to bring them up to the -- to the scale of the other departments, but I haven't achieved it yet.

Q What role, if any, did the department chairman play in this?

A They accepted that with alacrity.

Q Now, how is Professor Bebber's remuneration established?

A Bebber's remuneration is -- I replaced this full-time person, remember, and I appointed him -- or he was appointed on a semester basis.

So, he gets, for each semester, half of the salary in that line.

Q In other words, he is paid pro rata against the full-time schedule; is that correct?

A Yes.

Q The other part-time faculty members are compensated on a special departmental, by departmental course schedule?

A Course and/or student supervision.

Q Would you give us the range -- would you give us the range of per-course payments that exist?

A Yes. 800 to 1500.

Q That's per course per semester?

A Yes.

Q Part-time faculty, then, are not paid by means of honorarium; is that right?

A Honorarium? You mean honorary service to the school? No. They're paid for the work they do in the course.

Q Dr. Gittler, you made reference during your earlier testimony to a training grant in mental retardation; do you recall that?

A Yes.

Q Does your school in fact have a curriculum research and development center in mental retardation?

MR. SHECTMAN: Excuse me a moment, Mr. Chaiet.

HEARING OFFICER: Off the record.

(Discussion off the record.)

HEARING OFFICER: On the record.

Q (By Mr. Kramer) On or about November 29, 1974 -- strike that.

Who is the director of that center?

A Herbert Goldstein.

Q He is a full-time faculty member at your school?

A Yes.

A Yes.

Q Has the institution -- meaning Yeshiva University -- in fact received or -- in fact received the $590,021, or received approval of this grant with the money to come later?

A Yes.

Q Which is it?

A I don't know whether --

Q Have they actually gotten the money, or just approval of the money?

A I don't know how much of it they got to date, but they're supposed to get all the money.

Q In other words, this has been approved?

A Yes.

Q Now, Dean Gittler, aside from signing this continuation proposal, do you have any role -- any role in the direction of this project?

A Technically -- technically only.

Q Would you explain what you mean by that?

A I hire all the people that he wants on this project, and I approve all expenditures.

Q When you say you hire all of the people he wants on this project, who is the "he"?

A Dr. Goldstein.

Q Who selects the personnel for employment on this referred?

A As of December 31, '74.

Q Are those grants still in effect as of this time? Take a look through them.

A Yes.

Q So this exhibit, Employer's Exhibit 149, speaks as of today even though it is dated 12/31/74; is that correct?

A Yes.

MR. KRAMER: I offer Employer's Exhibit 149 in evidence.

HEARING OFFICER: Any objection?

MR. SHECTMAN: Just a moment, please. No objection.

HEARING OFFICER: Received.

(Employer's Exhibit 149 for identification, received in evidence, of this date.)

Q Let us focus on this exhibit, Employer's Exhibit 149.

How many of principal investigators listed on this exhibit are department heads or department chairmen, and would you name them first, please?

A The second grant on this first page, right now N. Gordon is listed as a principal investigator. Until this semester he was both principal investigator and chairman and now somebody else is chairman of the department.

Q Would you continue, please?

A And the third one, Zach, who is a principal investigator there and is chairman of her department, and the fourth one, Miller, who is listed as principal investigator and he is chairman at present, and the fifth one, Eagle, is at present chairman and the principal investigator, and the last one on the second page, Brayer, is principal investigator and chairman of his department.

Q Are the grants listed on this exhibit, Dean Gittler, training grants or research grants or are some of them training grants and some of them research grants?

A Some of them are training grants and some of them are research grants.

Q Would you, as best you can, tell us which are research grants and which are training grants?

A On Page 1, the first one is a research grant. The second one is a research grant.

The third one is a training grant and the fourth one is primarily a training grant.

There may be some research involved there, but I'm not familiar with that aspect of it. It's primarily a training grant.

CSA Reporting

Employer's Exhibit 149 with the exception, of course, of principal investigators?

A My office prepared that, yes.

MR. KRAMER: Mark that, please, as Employer's Exhibit 150.

(Document marked Employer's Exhibit 150 for identification, of this date.)

Q I show you Employer's Exhibit 150, marked for identification. Is that the list?

A Yes, to the best of my -- yes, it is the list.

Q It speaks as of March 17, 1975?

A Yes.

Q I would like you to focus, Dean Gittler, on the first grant listed here, the Eagle grant, TO 1 MHOB 207 12 and focuson that grant.

Are you aware of what the purpose of that grant is in a general way?

A Yes.

Q Would you tell us about that?

A That is a teaching grant in clinical psychology.

Q Under the heading Faculty are listed six visiting lecturers.

What do those visiting lecturers do?

A They teach and supervise in a clinical, in a practicum course in the clinical program.

Q What does that mean to me in lay terms, Dean Gittler? What should it mean to me?

A It should mean that when the students have to have clinical work with patients in the clinical program, these are the people that teach them and supervise their clinical approach and process with the patient.

It is not limited to that. They also have discussions, they, meaning students, have discussions with the people listed here relative to clinical situations.

Q If you recall, Dean Gittler, at our last hearing we talked about how part-time faculty members were paid.

Are these six part-time faculty members paid in the same fashion as the ones you described previously on a per course basis?

A No, these people are paid on the degree of participation in the course, the number of hours and the number of students they supervise in the course.

Q Paid by whom, Dean Gittler?

A Paid from -- paid by the University from this grant of money.

Q Are they part-time employees at the University?

A Yes.

Q Now, we have one additional title here under the Eagle grant, Adjunct Professor E. Tauber.

Do you know what Adjunct Professor E. Tauber does?

A He does the same thing as these others in the practicum course.

Q Does he do anything else, to the best of your recollection?

A I would have to look at my total list of part-time faculty. I don't remember whether he is teaching anything else.

MR. KRAMER: Let the record show that I'm giving the witness Employer's Exhibit 145.

MR. SHECTMAN: I will object to that.

MR. KRAMER: I will withdraw that, I'm sorry. You are properly objecting. That is not in evidence.

HEARING OFFICER: Was that the one that was withdrawn earlier?

MR. KRAMER: Yes. The exhibit has been corrected and we will introduce it, except it is not in evidence and I'm not showing him Employer's Exhibit 145 in evidence.

It is my mistake and I stand corrected. We will get back to that when we put Ex-

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the time cards from all secretaries and that is all I do.

Q Who is responsible for seeing to it that Ruth Mason does her job?

A The chairman.

Q Who is that?

A Of the department. Now it is Dr. Eagle.

Q Who is responsible for seeing that that secretary performs whatever work is assigned on the grant?

A Right now, Dr. Eagle.

Q Let us turn to the next grant on this page entitled Miller (OEG O 742637). Are you generally familiar with that grant?

A Yes.

Q Would you tell us what is being accomplished under that grant?

A Well, the department has on its teaching faculty several individuals who are paid from the grant.

The grant money is also used for B. Schwartz, the administrative assistant.

The grant money is also being used for Kathleen McKaig, who is, as it states here, a coordinator of the Competency Base Teacher Education Program, which called for a self-evaluation in the department and for a report from the department.

Q Was Professor Miller the principal investi-

A Either Weiner or Miller or both.

Q But not you?

A No.

Q I show you what would be physically the fourth and fifth pages of this application, entitled on Page 4,"Justification for Budget Lines," then follow two pages of text.

Who prepared this Justification?

A Either Weiner or Miller. I don't remember who, or maybe both, but either both or either one of them.

Q But not you?

A No.

Q Not your administrative assistant?

A No.

Q Not the Vice President for Academic Affairs?

A It is the budget, the budget is submitted by Weiner and Miller to me and sent over to the Fiscal Office before the application is sent to Washington.

MR. SHECTMAN: We will stipulate that Professor Weiner and Professor Miller did in fact develop and complete this proposal.

MR. KRAMER: We have the testimony of this witness and, quite frankly, counsel, that is sufficient for me.

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Q Now, do you know whether a final application has actually gone forward to the government for next year?

A I think this application went to Washington.

MR. KRAMER: I offer Employer's Exhibit 154 in evidence.

MR. SHECTMAN: No objection.

HEARING OFFICER: Received.

(Employer's Exhibit 154 for identification received in evidence, of this date.)

Q Dean Gittler, I see that in Employer's Exhibit 153-A, Dr. Miller describes one of his duties as Department Chairman, as concerning the direction of the Yeshiva Handicapped Teacher Education Project.

He is in fact the Director of that project, is he not?

A Yes.

Q Now, let us turn to Employer's Exhibit 150.

Under the heading Faculty, there is an Assist. Professor K. LeLaurin.

Is Professor LeLaurin a full-time faculty member at Ferkauf?

A Yes.

Q And is Professor LeLaurin tenured?

A No.

Q Is Professor LeLaurin tenure eligible?

A Yes.

Q Is a portion of Professor LeLaurin's salary paid from grants under Professor Miller's grant?

A Yes.

Q Who is responsible for seeing to it that Professor LeLaurin performs the services that are required under the grant?

A The Chairman of the Department is responsible for her performing her duties, given the type of people she has.

Q And if Professor LeLaurin were not to perform or does not perform her duties, would it be within the scope of the authority of the Chairman of the Department to remove her from working under the grant?

A The principal investigator, who in this instance is the Chairman, could remove her from the grant, but the principal investigator per se cannot remove her from the faculty, given her type of employment.

Q Now, were she removed from the grant today, Dean Gittler--

A No.

Q If she was removed from the grant today would she remain in the employ of the University?

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A She could if I had the money or the department had the money.

Q And if it didn't have money or you did not have money then what would be the effect?

A The money would be used for her appointment and somebody else would have to go.

Q Or?

A Or if the other is kept and there is no money for her, she would have to go.

Q Do you know an Adjunct Associate Professor P. Reiss?

A Yes.

Q Would you tell us as best you know what Reiss does?

A Reiss is listed, I believe, as teaching a course in the Department of Special Education. I think he shares the course with somebody else.

Q Who is responsible for seeing to it that Reiss performs pursuant to the grant? That is, does his services that he is supposed to do?

A Pursuant to the department responsibility, the chairman is. He gets the money from the grant to pay for his--

Q Is he also responsible as principal investigator?

Q Let us just cover this exhibit briefly.

The rank is in the second column, I take it; is that right?

A Yes.

Q And credit hours has the same meaning as contact hours; is that correct?

A Yes.

Q By current semester you mean the fall of 1974-75; is that correct?

A Yes.

Q Not the spring of 1974-75?

A No, the fall.

Q I notice there are two different types of asterisks on this exhibit, a single asterisk and a double asterisk.

Will you tell us first what the single asterisk denotes?

A Single asterisks denote psychology course numbered 517, if you will; the double asterisk denotes another course.

Q The single asterisk, faculty members, and there are seven of them, I believe, do they teach together a clinical course?

A A practicum clinical course.

Q Is that the practicum clinical course to which you previously referred in your testimony this morning?

A Yes.

Q Would they in fact be faculty members who are listed under the Eagle grant on Employer's Exhibit 150?

A No. One is for the fall and one is for the spring. This is the fall and this is the spring (indicating).

Q Let us go over it. Dr. Cooper appears on Employer's Exhibit 145 and he appears under the Eagle grant on Employer's Exhibit 150; is that correct?

A Yes.

Q And he has an asterisk next to his name?

A Yes.

Q Dr. Gill appears on Exhibit 150 under the Eagle grant and also on Page 2 of 145 with a single asterisk next to his name.

A Yes.

MR. SHECTMAN: I'm going to object in that counsel for the University is merely reading both exhibits with the witness concurring in the reading and I think this can be done in a brief and such correlation between exhibits or arguments or statistical workup can certainly be worked out under that kind of argument.

We need not belabor the record with a read-

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ing of these exhibits.

HEARING OFFICER: Objection sustained.

Q Dean Gittler, you have told us that the people with the single asterisk next to their names on Exhibit 145 and the individuals listed under the Eagle grant on Exhibit 150 are different in essence. Would you check to be sure that that is correct?

A Wolstein is listed as teaching in the fall. He is not listed as teaching in the spring in that course, and Skaist is listed as teaching in the spring semester and he is not listed as teaching in the fall.

Q With that exception the visiting faculty listed under the Eagle grant or the faculty listed under the Eagle grant and faculty listed with asterisks on Employer's Exhibit 145 are the same?

A Yes.

Q Is that correct?

A Yes.

MR. KRAMER: I offer Employer's Exhibit 145 in evidence.

MR. SHECTMAN: No objection.

HEARING OFFICER: Received.

(Employer's Exhibit 145 for identification received in evidence, of this date.)

AFTERNOON SESSION

HEARING OFFICER CHAIET: On the record.

CROSS-EXAMINATION

BY MR. SHECTMAN:

Q Dean Gittler, you have been Dean of Ferkauf since 1966; is that correct?

A Yes.

Q In the course of your service as Dean to the Ferkauf Graduate School have other University officials assisted you or worked with you in the administration of certain responsibilities?

A At the Ferkauf School?

Q Well, involving or affecting the faculty of the Ferkauf School.

A I used to have an assistant dean and she assisted me, and--

Q Does Vice President Sokol play any role in conjunction with you or on his own part that affects the interest of the faculty at the Ferkauf School?

A Yes.

Q Will you describe that role?

A He ultimately has to approve the budget that is submitted to him. That is the major role.

Q And will he at times suggest modifications record being made crystal clear in this regard.

HEARING OFFICER: Go ahead.

BY MR. SHECTMAN:

Q If we may stay with the chairmen's group for a moment, you indicated, did you not, that some of the conclusions or positions that may be arrived at in the course of these meetings will thereafter be presented to the faculty as a whole in most cases?

A Some. Most of them. If the By-laws call for presentation to the faculty.

Q And do the department chairmen appear at those meetings as representatives of the faculty of their department?

A I consider them as such, but as a group they represent the school as a whole.

Q And individually they represent their respective faculties?

A Yes, but not always in the discussion.

Q Does the Executive Council of the University make policy ever affecting the Ferkauf Graduate School?

A Yes, after things come up to the Council from various sources.

MR. KRAMER: I don't think the witness understood the question. How do you spell that council?

Q I am referring, Dean Gittler, to the body entitled Executive Council authorized under the faculty handbook.

Did you understand the question and answer accordingly?

A Yes.

Q Is it not true that the full-time workload of the full time faculty at the Ferkauf Graduate School is established or set pursuant to University-wide policy?

A No, the workload of the Ferkauf School was established by the chairmen.

Q You testified, did you not, that the workload is twelve credit hours or contact hours, or its equivalent, did you not?

A Equivalent, yes.

Q Is the standard for full-time employment twelve contact hours or its equivalent a University-wide policy?

A That was my understanding, yes, initially.

Q So then you are saying that the decision would be made at Ferkauf concerning the definition of the equivalent status?

A Yes, but in fact there is definition from that standard of twelve hours or equivalent by the Ferkauf School faculty and no flak.

MR. KRAMER: Is that no flak, did you say?

time faculty who are only teaching one semester this year?

A There is a faculty member who is on partial leave. He is teaching both semesters but he is on partial leave and teaching partially each semester.

Let me think again. That is it.

Q You testified in direct examination about Professor Sardi and you testified that she completed her requisite tenure years. What do you mean by that?

A I think she was at Stern College for seven years. The eighth year appointment would have given her tenure.

Q Automatically?

A If she got an eighth year appointment.

Q Is that pursuant to the faculty handbook?

A Yes.

Q Does the faculty handbook govern in terms of tenure policy for the University?

A Yes. I don't know about Einstein College.

I don't think -- I'm not sure it governs it.

Q With regard to the By-laws of the Ferkauf Graduate School, you indicated, did you not, that there was a Faculty Committee that worked in forming these By-laws.

A I said I believed there was a committee that worked up these By-laws before I became Dean.

Q Do you know whether it was an Advisory Committee?

A By Advisory Committee you mean what?

Q Did it make a recommendation as to these By-laws and submit it to someone for approval?

A Yes.

Q To whom were the By-laws submitted for approval?

A The Dean and the President.

Q Subject to the approval of both?

A I think so.

Q You indicated that pursuant to the By-laws part-time faculty were associate members.

Who were the full members of the Ferkauf faculty?

A Those who have a contractual annual full-time appointment.

Q And from whom is such an appointment derived?

A Who makes the official appointment?

Q Yes.

A The President.

Q Is that true for all full-time faculty?

A Yes.

Q Do associate members of the faculty have any voting rights?

A According to the By-laws, I think not.

Q Do you attend faculty meetings?

A Always, with one exception.

Q Do the great majority of the full-time faculty regularly appear at those faculty meetings?

A A quorum has to appear in order for there to be an official general faculty meeting.

Q Is there always a quorum?

A I think since '66 I can recollect that twice there wasn't a quorum.

Q Do your part-time faculty regularly attend faculty meetings?

A No. They are invited.

Q You indicated that there exists approximately seven standing committees at the Ferkauf Graduate School. Do you attend most committee meetings?

A No, the administrative assistant attends for me just as a listener and takes notes sometimes.

Q And reports the results of those meetings back to you?

A Not always, but she should.

Q And do you personally ever attend any of these committee meetings?

A Yes.

Q Are you entitled to participate at those committee meetings?

A By participate you mean discuss?

Q Yes.

A Oh, yes.

Q Will you vote in any of those meetings?

A I don't know whether I can, but I never have.

Q Will you voice your opinions at those meetings?

A Oh, yes.

Q Do part-time faculty participate regularly in any of those committees?

A No.

Q Did the Curriculum Committee ever make a recommendation to drop the Educational Psychology and Guidance Department?

A The Department was never dropped. They never made such a recommendation, as far as I know.

Q To the best of your knowledge, they did not?

A No. Dropped the Department?

MR. KRAMER: What department was that?

MR. SHECTMAN: Educational Psychology and Guidance.

Officer, that leaving the record as confused as it is--I know I am confused by the answer.

HEARING OFFICER: We have allowed clarification questions from both sides throughout the hearing. If the question is simply clarification--

MR. KRAMER: The question will be.

BY MR. KRAMER:

Q Do you mean the moratorium was effectuated that no students were admitted; is that what you were saying?

A To the gardens in the department.

MR. KRAMER: That is all I am asking.

BY MR. SHECTMAN:

Q You indicated that there was a Tenure Council, did you not?

A Yes.

Q When was the last time it met?

A The year before last, I think. I think in '72-73 or '73-74.

Q Can you recall more specifically?

A Probably '72-73. I believe that is correct.

Q Was this Council formed at your request?

A Yes.

Q Does it meet at your request?

A It meets when there are candidates to be considered for tenure and I become aware of it so I call the Council.

Q Who has the final authority in granting tenure?

A The President.

Q Do you have any veto powers over the considerations or recommendations of this Tenure Council?

A Yes.

Q Have you ever exercised such powers?

A Once.

Q And when was that?

A I don't remember the year, but I remember the individual. Do you want it that way?

Q Yes. What was that person's name?

A Allen Cohen.

Q Can you give us some approximation what year it was, to your recollection?

A Either '71-72 or '72-73.

Q Did the Standards Committee ever make any recommendation with regard to Arthur Katz?

A What?

Q Did the Standards Committee ever take any action or make any recommendation with respect to a student named Arthur Katz?

A I don't remember, I don't know.

from members of the department, members of the Promotions Committee regarding data and facts about a candidate, and I voice opinion about criteria for promotions.

Q Is not the role of this committee to make recommendation to you for promotion?

A Yes.

Q That is pursuant to the Faculty By-laws, is it not?

A Yes.

Q Have you ever refused to act on a recommendation of this committee?

A Yes, once.

Q And with regard to what person?

A Ruth Lesser.

Q Did this committee ever make a recommendation as to the promotion of Vera John?

A I think so, but I would have to look it up.

Q Didn't this committee recommend the promotion of Vera John?

A Yes.

Q Was Vera John ever promoted pursuant to that recommendation?

A No, because she resigned before I acted on the promotion.

Q How much time was that after the recommendation from this committee?

A The end of the academic year.

Q When did the committee makes it recommendation for the promotion?

A In the spring, I think, of that year.

Q Did you indicate what action you would have taken?

A I indicated that I'm not going to act on it, not turn it down. I wasn't going to act.

Q Have you ever at other times indicated an intent not to act on a promotion?

A Yes. Not to act means abstain.

Q That is correct, and that would preclude the promotion for as long as you abstained, would it not?

A It is up to the President.

Q In fact, did that not occur with Professor Jablonsky?

A What?

Q Your abstention.

A Yes.

Q And was it not three years after the committee's recommendation for her promotion that she was in fact promoted?

A No, two years.

Q Are you sure of that?

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A I think I'm sure.

Q You think you are sure or you are sure?

A To the best of my knowledge now, I think it is two years.

Do you want me to look it up? I will look it up.

Q Do you have those records before you?

A No.

Q If you abstained, does that recommendation go directly to the President?

A He is informed that I abstained vis-a-vis a given candidate.

Q Has he ever overridden your abstention?

A He consults with me and he did it with-- he doesn't override an abstnetion. Gives the President freedom to decide without a recommendation from me. There is nothing to override.

Q In the case of Professor Jablonsky, however, when you abstained, did the President contact you on that?

A Yes.

Q What was the outcome of that discussion or conference?

A He gave her a promotion.

Q Two years later?

A I think so, effective two years later.

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Q Was your recommendation to defer such a promotion?

A I made no recommendation.

Q Has there been any time you recommended a promotion when the President has not granted that promotion forthwith?

A No.

Q Pardon me?

A No.

Q So that in reality or in practice a positive recommendation from you has in fact meant an immediate promotion?

A That is not the whole situation. A positive recommendation from the committee and me.

Q You indicated that your budget is a major determinant in choosing a rank for incoming faculty.

A In the last few years.

Q Who ordered the freeze of your budget?

A The President, a few years ago.

Q You indicated that the department chairmen receive or are required only to teach half of the normal contact hours.

A No, half of the workload.

Q Half of a workload?

A Yes.

record.

MR. SHECTMAN: If he knows.

A If Miller tells me what he is teaching, I will tell you if it is half a load.

MR. KRAMER: We ought to record the Professor is sitting in the room. He is not under oath at this point.

MR. SHECTMAN: I am not asking him to state it for the record, but he can tell Dean Gittler.

MR. KRAMER: Off the record.

HEARING OFFICER: Off the record.

(Discussion off the record.)

HEARING OFFICER: On the record.

We will get to it when Professor Miller takes the stand.

Q Dean Gittler, is the sabbatical policy which covers the Ferkauf faculty established pursuant to the faculty handbook?

A Yes, with a recent modification of it by the President. I think it is a modification.

The handbook may enable the President to modify it the way he did.

Q And those policies governing sabbaticals, govern the entitlement of your faculty to sabbaticals?

A Yes. It isn't automatic, though.

Q In the last few years did a Professor Alvin Atkins request a sabbatical?

A Yes.

Q Did you deny his request for a sabbatical?

A I don't think I denied it but I think I took it up with the department and raised a question of what would happen with the program if he were to go on sabbatical.

Q Did you take the final action in notifying him of his entitlement of, of a non-entitlement of that sabbatical he requested?

A I don't think it reached that point. I think that everybody saw that there would be enormous difficulties involved, so either it was withdrawn--I don't remember writing him saying"Your sabbatical is denied."

Q You indicate department chairmen have access to secretaries, did you not?

A Yes.

Q And do all members or these full-time members of your faculty have access to secretaries?

A They have access to the departmental secretaries.

Q Can any faculty member direct a secretary to perform a certain function or a certain job?

Q What do you mean by senior members of the faculty?

A Those that have been -- one, most of them have full professor status, and then, two, that they have been on the faculty. Nobody is on that committee that has been on the faculty less than about half a dozen years, three, and by senior members--let me run through my mind.

I don't think anybody is on that committee who isn't tenured faculty. That is another definition of senior members.

Q Any of those faculty members senior to any department chairmen?

A Yes.

Q How are department chairmen chosen?

A Recommendation from the department to me.

Q Is that usually by way of consensus or election?

A I don't know. It comes to me as a recommendation from the department through the chairman and whether they vote or they reach a consensus internally, I don't know.

Q But it would be one or the other?

A I should think so.

Q Now, this Council on Grievances and Appeals, posal for salary adjustments?

A Not only he but the University Budget Committee met with the Welfare Committee.

Q Who was on that committee?

A Jack Rabinowitz and Sokol and Silverman. Silverman wasn't present.

Q Who was on the Welfare Committee?

A Oh, I don't know. I have to look it up.

Q Were discussions undertaken in those meetings, to the best of your knowledge, as to any adjustments of faculty salaries?

MR. KRAMER: I must object. What difference does it make what the discussions were at those meetings to this proposal or this proceeding or this petition?

HEARING OFFICER: First of all, was Dean Gittler there?

THE WITNESS: Yes, I was there.

Q And did the faculty present any proposals?

HEARING OFFICER: The objection has been overruled. It was overruled previously.

A Yes, they did.

Q Was there any action taken on those proposals?

A No, not to the extent of their request to.

I don't know whether the increments that the University came to was in answer to it. I guess not. I don't know. Requests for their demands.

Q Have department chairmen served on the Welfare Committee?

A Yes, I think so.

Q Who is currently the chairman of the Welfare Committee?

A If I knew you were going to ask me these things I would have brought all the memorandums, but I'm guessing now. I think the chairman of the Welfare Committee is Kasdon, I think, but I stand corrected.

Who is chairman?

Q Would it refresh your recollection if I informed you that Professor Miller is?

A I beg your pardon. Miller is chairman, I forgot. Miller has been chairman several years.

MR. KRAMER: I ask for a stipulation that he is also president of the Faculty Association.

MR. SHECTMAN: So stipulated.

HEARING OFFICER: I receive the stipulation for what it is worth.

Q And may those persons who are acting as principal investigators serve on the Welfare Committee?

A If they are full-time members of the faculty.

Q Are any part-time members of the faculty on the Welfare Committee?

A No.

Q Did the Welfare Committee proposal that we have referred to or any other Welfare Committee proposal you are aware of ever cover salary increments for part-time faculty?

A I don't recall a recommendation along that line. May have been. I don't recall.

Q The original salary schedule you referred to--

A Let me make a point about that recommendation.

Whatever came through as a report from the Welfare Committee at that time, I don't think I paid very much detailed attention. I immediately called a meeting of the -- immediately -- I called a meeting of the University Budget Committee with the Welfare Committee and I didn't engage in any kind of discussion on what was being recommended.

Q What was the purpose of your convening the Budget Committee?

A I didn't convene the Budget Committee. I convened a Welfare and Budget Committee.

Q What was the purpose?

A To discuss what the Welfare Committee was recommending.

Q And would it be within the authority of the Budget Committee to grant or deny such a proposal?

A I think not. I think it would have to be taken up the line.

Q And that would be to whom?

A The President, I think.

Q The original salary schedule worked out by the Welfare Committee was approved by whom?

A By the then Vice President and the Vice President in charge of finances and the President.

Q Did that salary schedule include part-time faculty?

A No.

Q It included all full-time faculty?

A Yes.

Q Did it include department chairmen?

A As such?

Q Yes.

A Salaries as chairmen?

Q Yes.

A No.

Q They received the same salary pursuant to the schedule as any other faculty?

the University completes theirs.

HEARING OFFICER: Go ahead.

BY MR. SHECTMAN:

Q Are you familiar with the term hard money and soft money?

A No.

Q Do you know what ie means?

A No.

Q To say an employee or faculty member is on soft money?

A No.

Q Do you have any faculty whose full compensation is derived from grants?

A Yes.

Q Dean Gittler, I show you Employer's Exhibit 51 from Board Exhibit 2. I call your attention to the tenure policy contained therein and specifically to Paragraph 5C. Have you read that?

A Yes.

Q Does that section describe the employment of K. LeLaurin?

MR. KRAMER: Mr. Hearing Officer, this section speaks for itself and whatever it says it says. The witness doesn't have to testify what it describes. The words are in there.

CSA Reporting

MR. SHECTMAN: I am not asking what it means. I'm asking was Professor K. LeLaurin appointed subject to special funding derived in the main from non-University funds or was it for appointment in connection with any special project.

A About Kathleen LeLaurin, the following was my understanding: I would interpret Section C here as an individual being appointed because of these funds.

She was appointed and received a salary from these funds. I see this now.

I always considered Kathleen LeLaurin as being on the tenure track because she has a straight assistant professorship and if it was intended that she should not be on the tenure track she would have gotten a research adjunct visiting.

Now, C raises some question, but I consider her to be on the tenure track now.

Q This policy would prevail, would it not?

A What policy, C?

Q Well, no, the tenure policy as set forth in the faculty handbook would prevail to determine as to whether she was or was not tenured, would it not?

MR. KRAMER: Mr. Hearing Officer, that calls for a legal conclusion.

This witness--

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MR. SHECTMAN: I mean pursuant to University policy.

HEARING OFFICER: I don't see that it is drawing a legal conclusion.

MR. KRAMER: Of course it is.

HEARING OFFICER: I am going to allow the witness to answer the question.

MR. KRAMER: I will explain my objection further, make it clearer.

Suppose for instance this faculty member had been told certain other things--I don't know what, but things contrary to what are in that manual. I believe I have been told by responsible University officials--I don't know whether that happened or didn't happen--and I don't know if the witness knows whether it happened or didn't happen.

Now, the witness--

HEARING OFFICER: I will allow the witness to answer whether he doesn't know or--

MR. KRAMER: Let me finish.

The question then would be, would this document as a matter of law govern over what that faculty member may or may not have been told? That calls for a legal conclusion and the only way I can make that legal conclusion is based on the facts and you have to know all the facts, and once you know them it is still a legal conclusion.

This witness is not the University's counsel and the facts upon which the University's counsel can even make such a judgment are not in the record.

MR. SHECTMAN: I am asking whether pursuant to University policy the present authority to deny or grant tenure, to make full-time appointments, the policies are as set forth in the faculty handbook, whether those policies would prevail in any such determination.

MR. KRAMER: Such determination of what?

MR. SHECTMAN: Eligibility for tenure.

MR. KRAMER: On what fact pattern?

MR. SHECTMAN: On existing fact patterns of K. LeLaurin.

MR. KRAMER: Mr. Hearing Officer, I reiterate my objection. It calls for a legal conclusion of this witness. He is not a lawyer. These are very delicate questions.

HEARING OFFICER: As I understand it--

MR. KRAMER: I mean, I heard the witness testify and I don't understand the fact pattern and I'm not sure he can drawn any conclusion based on this even if he were a lawyer, which he is not.

HEARING OFFICER: The witness testified, as I understand it, that Professor LeLaurin was hired because there was funding available; is that correct, Dean Gittler?

THE WITNESS: Do you want me to clarify?

HEARING OFFICER: If you could.

THE WITNESS: No matter what is here, the department knows, and when LeLaurin was hired I considered her appointment as being an appointment on the tenure track and this was pointed out to me previously.

BY MR. SHECTMAN:

Q When, when previously?

A This morning by Marty Miller.

If -- this was my understanding, that she is on the tenure track. If a question is raised in the future, if she should remain at the University--at the school seven years, one.

Two, if she was then to come up for an eighth year tenure appointment, it would be my position that her appointment was such, notwithstanding this, my understanding was that she--that that would be increasive and cumulative towards tenure.

Q Would the final determination be made by the President of the University?

A I don't know.

Q Who normally makes the final determinations as to tenure?

A The President makes the final tenure appointment.

Q And does he do so according to the tenure policy of Yeshiva University?

A Yes, but he can waive things. But this was my understanding and it is that now.

6 HEARING OFFICER: Could you perhaps clarify for the record what your understanding is based on?

THE WITNESS: My understanding is based on that if she were not to be on the tenure track, she would have gotten an appointment as a research assistant professor or an adjunct assistant professor or a visiting assistant professor, not as a straightforward assistant professor.

HEARING OFFICER: So you are drawing the conclusion from the facts?

THE WITNESS: I don't know if I'm drawing any conclusion. I am saying the basis of why I consider her on the track.

Q Did you designate that title upon her appointment?

A I don't remember whether that came up

from the department, that kind of title, or whether I did.

Q You are aware that such a title was predesignated, were you not?

A A straight assistant professorship?

Q Yes.

A Oh, yes.

Q At that time were you aware of Section 5C of this tenure policy?

A At that particular time of the appointment?

Q Yes.

A I may or may not have been aware but I mentioned my intent.

Q Do you recall whether you were cognizant of the existence of that provision in the tenure policy at that time?

MR. KRAMER: Could I hear that question read back, please? I missed it. Your back was turned to me, sorry.

(The reporter read the question.)

MR. KRAMER: I think the witness has answered that question already a second or third time.

MR. SHECTMAN: I want it clear.

A Yes, I want to clarify further that when the recommendation for that slot, assistant professor of special education, came up, I agreed to that appointment as a straightforward appointment and then I didn't alter the appointment when it became clear that she is to be paid from the grant.

So if in the future it raises some question of whether that kind of appointment could be made, all I can say is that it was made and the intent of that appointment is clear in my mind.

Q Have you received any recommendation recently that she be given a regular appointment?

A She has a regular appointment.

Q A few months ago did you notify Professor Miller that there would be an opening for the hiring of a faculty member in his department?

A Yes.

Q Did he discuss with you the possibility of granting to Ms. LeLaurin a regular appointment?

A She has a regular appointment.

Q Do you recall what that discussion was about you had with Mr. Miller?

A Yes, to have a new person being paid by the grant and LeLaurin being paid by University funds.

Q Did you understand why he made that recommendation?

A Not until this morning. At that time it was just that she would feel better about it.

Q You thought that there was no other import?

A No.

Q With regard to Professor Herbert Goldstein, did it come about in the last two or three years that you learned of his intent to leave your faculty?

A Yes.

Q Did you have reason to understand at that time that if he were to leave your faculty the project which he headed would also leave Yeshiva University?

A That is what he said he would do. Whether that can be done, whether that is automatic, I don't know, but the focus was on to keep him from leaving the school.

Q And was there accepted the possibility that if he did leave he would take the grant with him?

A Accept the possibility? I just said that I didn't consider it. My focus was on his staying.

We never discussed, I never discussed with anyone that if he left he would take the grant with him. I just discussed his staying.

Q Wasn't it part of your interest in his staying interest in maintaining that grant?

A No, my primary interest in Herb Goldstein was staying at the school, was for him to remain at the school. He happens to have a grant. If he didn't have and if he hires people he supervises their roles and their involvements in the research enterprise.

Q Is there anyone else who supervises their involvement in that research enterprise?

A No.

Q Your answer was no?

A No.

MR. KRAMER: I might note that the Board will have to decide what all these words mean. I won't ask that the conclusory words be stricken save to note they are being used now with great impunity from the same witness they were objected to only a few minutes ago.

MR. SHECTMAN: I used only those words provided by the witness.

Q Have you ever promoted any non-faculty member employed under a grant?

A I don't know what "promotion" means. He may get an increase.

Q Who initiates a request for that?

A The principal investigator.

Q If grant funds are employed for that incrase do you as a matter of course approve of such an increase?

A Yes.

Q Have you ever fired anyone employed under

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A And the chairmen run the school. I'm not being facetious either.

Q You stated that you always attend faculty meetings and then you added with one exception.

A Yes.

Q Will you tell us what that exception is?

A One time there was a special faculty meeting called which I could not attend and I asked the chairman of the Steering Committee to chair.

Q In connection with meetings of the Tenure Council, you testified on cross-examination that the last meeting, to the best of your recollection, was in '72-73. That means, does it not, Dean Gittler, that the committee did not meet in '73-74?

A That's right.

Q Why is that?

A Because there were no tenure candidates.

Q Are there any tenure candidates this year or is it too early to ask that question?

A No, right now I have no evidence of tenure candidates yet for next year.

Q You spoke in connection with an Allen Cohen, exercising your veto power over -- what was it, promotion or tenure?

A Tenure.

Q Clinical faculty. Will you tell us on what basis they are paid, per semester or per hour or some other --

A Wait a minute. Clinical faculty?

Q Yes.

A What do you mean?

Q Faculty who are teaching as clinical visiting professors in a practicum.

A They are paid on the basis of their degree of participation in the practica courses, on the basis of time and the number of students they supervise.

Q Putting them aside for the moment, is it correct that other part-time faculty are paid on the basis of courses per semester?

A Yes.

Q Or on a per semester basis?

A Yes, or on student supervision of flat sum. I mentioned that the other day.

Q Those are all of the bases then, all collected together at this point in the record; is that right?

A Yes.

Q Dean Gittler, based on the records that you normally keep at your school, I'm talking now about payroll records and time records, is there any way of determining how much time a principal investigator on a

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much higher?

A Wait a minute.

It is on a semester basis, not on a per student basis.

You want to know how much?

Q Yes.

A $1200.

7 Q $1200 per semester is the maximum?

A Wait, I will tell you. And we have a supervisor of the supervisors, but he gets $1500.

Q With regard to your full-time faculty, what is the lowest amount that assistant professor receives?

A Ten plus. Between ten and eleven thousand.

Q That is per annum?

A Per academic year, not per annum..

Q And an associate professor?

A I could have brought it. Associate professor, you jumped--wait--associate professor, around fourteen.

Q Full professor?

A Around 16,000, 15, 16,000, the lowest.

Q Could you give a reasonable approximation as to the average salaries paid in each rank? The average salary for assistant professors.

MR. KRAMER: Mr. Hearing Officer, in evidence as an exhibit, the Board Exhibit 2, are some AAUP

(Documents referred to marked Petitioner's Exhibits 102B and C for identification.)

HEARING OFFICER: On the record.

Have you given your name to the reporter?

THE WITNESS: Manfred Weidhorn.

HEARING OFFICER: Professor, raise your right hand.

Whereupon.

MANFRED WEIDHORN,

having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. SHECTMAN:

Q Professor Weidhorn, who is your employer?

A Yeshiva University.

Q Where are you employed?

A At Yeshiva College of Yeshiva University in Manhattan.

Q In what psoition are you employed?

A I am prefessor of English.

Q And what is your educational and professional background?

A I received a bachlor's degree from Columbia College and a master's degree from the Unifersity of Wisconsin and then a PhD from Columbia University Graduate School in English, and I taught for a year at the University of Alabama, and then three years at Brooklyn College and then I came to Yeshiva in 1963.

Q And have you been in the continual employ of Yeshiva University since 1963?

A Yes.

Q All right.

Were you appointed as a full-time member of the faculty?

A Yes, I was.

Q And by whom were you employed?

A By President Belkin.

Q In what form did you receive notice of your appointment?

A In a letter at that time.

Q That letter was from President Belkin?

A Yes.

Q And what rank of the faculty were you appointed to?

A Assistant professor.

Q And currently what rank in the faculty do you hold now?

A Full professor.

Q Are you a tenured member of the faculty?

A Yes, I am.

Q And under -- strike that.

From whom did you receive notice of your tenutre?

A Linn Tauber, Siev Chernowitz, Lainoff.

Q Are any of those persons department heads or division heads or senior faculty members?

A Yes, two or three are.

Q Which ones?

A Tabuer is a department head of speech.

Chernowitz is of art.

And Dr. Siev is head of some department, I am not t-o sure what.

Q Does membership -- strike that.

Are all of those persons full-time members of the faculty?

A Yes.

Q How long have you been on the welfare committee?

A Since my second year -- well, yes, it's almost two years now.

Q And what is the role and function of the welfare committee?

A To take up matters of faculty remuneration, fringe benefits, and faculty-- grievances that individual faculty members have.

Q Has or does the welfare committee at Yeshiva College work jointly with ay other welfare committee?

A In 1968 it was -- it began working jointly with the St ern College welfare committee.

Q And is it currently still working with the Stern College welfare committee?

A Yes, it is.

MR. KRAMER: I would inquire into the materiality and relevance of the examination about the welfare committee.

HEARING OFFICER: In its connection?

MR. KRAMER: In connection with Stern College or for that matter with the basic issues in this case, which are clear on the record, being already stated by me.

HEARING OFFICER: Is petitioner seeking to show that the two colleges are connected as per unit, designation?

MR. SHECTMAN: No.

We will seek to submit documents into evidence that will reflect action of these welfare committees acting jointly.

Accordingly we are laying a basis for future testimony.

I would also want to add that Mr. Kramer has repeatedly objected to all evidence, almost all evidence or a great deal of testimony that has been admitted with regard to the welfare committee at the

HEARING OFFICER: The document will be received into evidence.

MR. KRAMER: We would ask for a limiting ruling -- you have the opportunity to build the record and I am not the only one --

HEARING OFFICER: If I feel it is necessary to build the record I will call Dean Bacon to the stand and question him.

(Petitioner's Exhibit 107 for identification was received in evidence.)

BY MR. SHECTMAN:

Q Did there come a time when those salary schedules developed and were established according to Petitioner's Exhibit 107, page 5, were frozen or taken out of effect?

A Yes.

Q Could you describe the circumstances?

A In the third year of 1970, '71, the salaries were frozen.

Q And were any promotional increments granted in the academic year 1971, 1972?

A I am not clear that there were even promotional increments in those days.

MR. SHECTMAN: I would like to offer as Petitioner's Exhibit 108 for identification a letter on Yeshiva

University stationery dated December 31, 1970 to Dear Colleague, from Samuel Belkin, president.

(Document referred to marked Petitioner's Exhibit 108 for identification.)

Q I show you Petitioner's Exhib it 108 marked for identification.

Does this refresh your recollection as to the last question?

A Yes, it does.

Q Could you now answer that question?

A Yes.

The announcement of the freeze came in the year 1970-71 and the freeze took place in '71-72.

Q And did that freeze affect all salaries commenced for that year, '71-72?

A Yes.

Q And did it also freeze any promotions?

A That I don't know.

Q Let me call --

A Yes.

Well, it says so here, but whether that was -- that part -- whether that part was implemented, I don't know.

I know about the salaries being frozen.

HEARING OFFICER: You can take an exception to any ruling I make automatically.

Q Has the salary schedule for fulltime faculty at Yeshiva College been recently amended?

A Yes.

At our renewed negotiations in 1974 and new increases were promulgated.

Q Who took part in those negotiations?

A The welfare com mittees of Stern and Yeshiva College.

The business affairs vice president.

The deans of Yeshiva, Stern and Erma Michael Colleges.

And one or two other members of the administ ration.

Q Do you recall who those persons were?

A Mr. Ellenberg.

I am not sure, I belidve Mr. Fishman sat in on one session.

Q And did these negotiations establish any increase for parttime faculty?

A No.

Q Did they establish increases for all full-time faculty?

A Yes.

Q Did they establish any separate increases or increments for department heads?

A None that I know of.

Q For Senior professors?

A None.

Q Division heads?

A None.

Q Did any part-time faculty take part in those negotiations?

A Not as far as I know.

MR. SHECTMAN: I offer to be marked as Petitioner's Exhibit 110 faculty welfare committee proposal of October 5, 1974.

(Document referred to marked Petitioner's Exhibit 110 for identification.)

Q I call your attention to Petitioner's Exhibit 110 for identification.

Was this proposal accepted and implemented as a salary for the faculty at Yeshiva College?

A Yes.

Q Does it currently obtain?

A Yes.

Q And was it likewise accepted for the Stern College?

this current year when the committees raised the question of retirement, the vice president, Sokal, indicated that he was under legal constraints and therefore was not prepared to discuss the matter.

Q And with respect to pension issues curing the bargaining did vice president Sokal also take the position in that regard?

A He indicated that the whole question of penisons and fringe benefits had been turned over the -- turned over by the administration to some sort of an agency to revie

He therefore didn't want to discuss it -- the matter, until the agency gave its report, which was eventually done.

Q Did vice president Sokal give you any indication as to who would have the final authority or who would have the authority to make any changes in the pension or fringe benefits package?

A Both in private telephone conversation as well as at one of the meetings between the welfare committees and vice president Sokal I raised the question of how this was -- this was in the weight of the presentation by this agency --

Q When was this?

A In the fall of '74.

The agency presented a pension plan and I asked on two occasions, vice president Sokal, whether there would be a vote of the faculty to ascertain whether this plan was acceptable and in both occasions he said that it is not the way -- something like this can be done.

He said the final disposition would have to be made by the board of trustees.

MR. KRAMER: Mr. Hearing Officer, since I have taken an exception to your ruling, I have an automatic exception.

Since we have also stated an exception to your ruling on matters of this type, I have refrained from objecting.

But I would like to note that we have objected repeatedly to questions of this type.

Q Professor Weidhorn --

HEARING OFFICER: Was that an objection?

MR. KRAMER: It was a notation of an objection.

We have objteced to this whole line.

HEARING OFFICER: Your objection is noted.

It is overruled.

We will continue.

Go ahead, Mr. Shectman.

Q -- does any faculty member serve on the board of trustees of Yeshiva University?

A None.

MR. KRAMER: By the way, our standinb objection would go to those questions as well.

HEARING OFFICER: Overruled.

Continue.

Q You testified that the welfare committee considers certain individual grievances of faculty members.

Could you give us some example?

A About seven years ago -- incidentally, in this salary settlement in 1968 there was some proviso for salary settlement in 1968 there was some proviso for consideration by the welfare committee for inequities that might result inadvettently as a result of this new salary schedule, and three faculty members felt that they had grievances which they took to the welfare committee.

This is in 1968, '69.

Q Who were those members?

A Prof. Chernowitz, Siev and Weidhorn-

Q You were one of those?

A Yes.

Q Can issues other than salary or inequities in the salary or fringe benefits of individual faculty members be referred to the welfare committee?

A That seems to be the mandate that the welfare committee has.

They consider any sort of grievance that a faculty memer has, such as promotion for example, a matter that the welfare committee took up on the past year.

Q You said therewas a mandate.

From whom did that mandate come?

A Well, I entioned in this 1968 document there was one proviso having to do with the grievances of the over-all salary settlement.

And then at a meeting in the past year or so there was a restatement or extention of this mandate by the faculty assembly.

MR. SHECTMAN: I offer for identification as 111 the minutes of the Yeshiva College faculty welfare committee and it is dated October 30, 1974.

(Document referred to marked Petitioner's Exhibit 111 for identification.)

Q Is this mandate to which you referred to consider oth individual grievances such as promotion --

A Yes.

Q -- set forth in this document?

A The next to last item of the document.

HEARING OFFICER: On what page?

THE WITNESS: Page 2.

MR. KRAMER: I have no objection as to the authenticity as to this.

My objection as all my other objections, is to relevance andmateriality as to this whole line.

HEARING OFFICER: The objection is overruled.

The document is received.

Your exception is noted.

(Petitioner's Exhibit 111 for identification was received in evidence.)

Q As chairman of the faculty welfare committee or the full-time faculty at Ykshiva College, are you aware of any welfare committee or other standing committee at the college that acts in such role for part-time faculty?

A I know of no such body.

Q Does the welfare committee or any of its members take part in the formulation of the Yeshive Collage budget?

A In no way.

Q Has the welfare committee or any members of it or any members ofthe faculty ever asked to see the budget or discuss b udget?

MR. KRAMER: Can I hear that question read back?

Whereupon, a professor, and I recall the scene vividly, in my mind, I can even identify the professor, Professor Arthur Hyman of the philosophy department said, well, we have Dean Bacon here among us, let us ask him if this actually happened and the dean rose and said, he could not comment.

Q Do you regularly attend faculty meetings?

A Yes.

Q How often are those meetings?

A I would say on the average anywhere between six to ten times an academic year.

Q And those are faculty assembly meetings?

A Yes.

Q And how many of those or what percent of those meetings did you attend over the last academic year?

A I would say about 80 percent of them.

Q Did you notice any part-time faculty in attendance at those meetings?

A Well, the answer is yes and no.

There are two kinds of part-time people.

There are those who are completely outside the university who simply teach elsewere or do not teach outside except for a few courses at the school and I have never noticed any of themat any faculty meeting but then there are of course the people who are part-time at the at the college but full-time within the university, like my colleague, Professor Berrins, who I notice from time to time at Yeshiva College faculty meetings.

Q Who sets the agenda to the best of your knowledge of thse faculty meetings?

A Well, there is a faculty agenda committee but since I have been chairman of the welfare committee, whenever questions of the agenda for a faculty assembly have come up, I have always been in communication only with Dean Baco

Dean Bacon has consulted me about how long my presentation would be or something like that and I have never had any dealings with this committee and yet the documents, the agenda itself when it is sent out had the name of faculty agenda committee at the bottom, although I must say the last announcement or two had this title, faculty agenda committee, seems to have been silently dropped.

MR. KRAMER: That was after the filing of the petition so we are clear on the dates, after October.

A I am not sure about that.

I believe some notices in the fall still were signed the faculty agenda committee.

MR. KRAMER: All right.

I will cross on that.

Q Did any of those agendas to which you referred include a presentation by you or by others -- other members of the welfare committee?

A Yes, certainly.

Q Now, you heard testimon y from Dean Bacon with regard to the effective faculty action, resolutions at assem meetings?

Do you recall any example where the university administration has failed to carry out a resolution of the faculty f rom a faculty assembly meeting?

A Well, Dean Bacon has testified that the president, president Belkin has never vetoed anything which the faculty has passed and that may not be entirely correct because about seven or eight years ago the faculty passed as part of statutes or by -laws a section devoted to divisions and departments, and this section has never been approved by the president.

So that we have here a pocket veto in effect.

Q And that in fact was an amendment to the governing documents of the Yeshiva College faculty?

A I am not clear as to whether it was part of the documents or an amendment to it.

Q It represented a change or amendment to the constitution of the Yeshiva, in any event?

A Yes, it had to do with the governments of the school, yes.

Q Did the dean explain why no action was taken on that resolution?

A Yes.

He said that because the faculty vote approving this section was very close, something in the order of seven to six or some such close vote.

But the point is it had passed.

Q And to whom did he give that explanation?

A To me.

Q To what department do you belong at Yeshiva College?

A The English department.

Q And are there department meetings?

A Yes, there are.

Q Approximately how often?

A I''d say about -- between two and four times a year on the average.

Q Canyou tell us about the typical subject matter of those meetings?

A Decision may be taken on who will receive the prize for English in the graduating class at the end of the year or whether as in the case of last year, there wasa student who had taken some sort of English literature proficiently examined five times and failed it, all five times whether he should be allowed to take it a sixth time and matters like that.

Q And how is action taken at these meetings?

A By consensus but when there is a difference of opinion then vote, straight vote.

Q Who is the chairman of this department?

A Dr. David Fleisher.

Q What is his role at the meetings?

MR. KRAMER: I must object.

If he wants to ask what Dr. Fleisher does, what he says, but it is conclusory as to his role.

HEARING OFFICER: Sustained.

Q In terms of what Dr. Fleisher says and does at the meeting, what is his role?

MR. KRAMER: Now --

Q In terms of what he says and he does.

HEARING OFFICER: What does Dr. Fleisher do and say at the meetings?

THE WITNESS: Well, he presents the particular matters to be thrashed out.

Q Will other faculty members within the department present on their own matters tobe thrashed out?

A Oh, yes.

I must have on occasion.

Q And will the consensus or vote of the department as a whole govern as to the department's position?

MR. KRAMER: Mr. Hearing Officer, I must object to the leading nature of that question.

It is the most leading question imaginable.

HEARING OFFICER: Can I have the question again, please.

(Record read.)

MR. KRAMER: The question is how are these issues determined and the witness can tell us how they are determined, not suggestigg to him how they are determined.

The record of university cases is loaded with consensus most of it put there in leading questions.

HEARING OFFICER: Are you willing to retract your question and rephrase it, Mr. Shectman?

MR. SHECTMAN: I will without -- only to save cluttering the record with repeating Mr. Kramer's objections to my objections to questions of similar substance.

Q Does the chairman of the department have the right vo veto the votes or consensus of the department?

A De jura, I don't know, but he never has so far as I know.

Q And how is department policy set?

A At these meetings.

Q Does the department chairman of the department have authority to set department policy outside of these meetings?

A As far as I know he doesn't.

HEARING OFFICER: Professor Weidhorn, you are a department chairman yourself, aren't you?

THE WITNESS: No, I [illegible].

HEARING OFFICER: Oka[illegible]

Q Do members of the university administration as a matter of course attend department meetings?

A No, they don't.

Q Doyou recall the last time a member of the administration did attend such meeting?

A Dean Bacon once attended -- I forgot the occasion, but I believe there was a discussion on exemption examination or something like that but attended only for that portion of the discussion, that portion of the meeting devoted to that particular question.

Q[Was he then asked to leave the meeting?

A No. Just left on his own.

MR. SHECTMAN: Can I ask that we recess now?

MR. KRAMER: Are we resting or --

MR. SHECTMAN: There will be a few more questions but it will be just probably about five minutes after lunch.

HEARING OFFICER: And then --

MR. KRAMER: Possibly we could finish. That way I

AFTERNOON SESSION

2:30 p.m.

HEARING OFFICER: On the record.

Mr. Shectman, your witness.

BY MR. SHECTMAN:

Q Is there a sabbatical policy promulgated for the faculty of Yeshiva University?

A Yes, there is.

Q And where is that sabbatical policy defined?

A In the faculty handbook.

Q Has there been any change in that policy at Yeshiva College?

A Well, it would seem that in the last two years on the basis of questioning that I have done that an option has been taken away from faculty members shich amounts to a de facto suspension of sabbaticals.

The choice used to be between taking a half a year at full pay or a full year at half pay.

As far as I have been able to ascertain no one on the past two years has goten a half year at full pay and one faculty member at least in Yeshiva College and another one in another school that I have spoken to were told that they could only take it at full year at half pay.

And there was no -- the faculty was in noway -- played no role in this change of policy, wasn't even informed of it in any sort of document.

Q Do you rec al when Dean Bacon assumed the deanship at Yeshiva College?

A He did so four years before I came to school.

I have talked to the faculty members about the circumstances of that -- of his assuming the deanship.

Q Do you know if any faculty took part in the searching and hiring the dean?

MR. KRAMER: I have to object.

HEARING OFFICER: Sustained.

Q I show you Petitioner's Exhibit 102C for identification.

The constitution and by-laws of the Yeshiva College faculty association.

Has that document been adopted by faculty at Yeshiva College?

A It has.

Q When was it presented to them?

A October of 1974.

Q At that time was a vote taken on its adoption?

A Yes.

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Q And at that time was this document adopted?

A It was.

Q Is this document in full force and effect?

A Yes, it is.

MR. SHECTMAN: I offer into evidence Petyitioner's Exhibit 102C.

MR. KRAMER: No objection.

HEARING OFFICER: Received.

(Petitioner's Exhibit 102C for identification was received in evidence.)

MR. SHECTMAN: No further questions.

CROSS-EXAMINATION

BY MR. KRAMER:

Q Mr. Weinhorn, who are currently the members of the welfare committee at Yeshiva College?

MR. SHECTMAN: I believe the witness has already testified --

MR. KRAMER: This is cross-examination.

MR. SHECTMAN: -- as to who are the members on the record name by name.

MR. KRAMER: Fine.

I want to check his recollection on that and get on the record here.

I have other questions I want to ask.

HEARING OFFICER: Answer the question, please.

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A Excuse me.

HEARING OFFICER: Answer the question.

A Drs. Linn, Lainoff, Tauber, Siev, Chernowitz and myself.

Q Now, which of these faculty members are senior members or department chairman asyou have called them?

A Tabuer, Chernowitz and Siev.

Q Are Tauber, Seiv and Chernowitz also members of the Yeshiva faculty association?

MR. SHECTMAN: I object.

HEARING OFFICER: What point are you trying to make?

MR. KRAMER: As I stated in the record previously it is the belief of the university that the authorization cards in this matter are tainted either because they were secured by faculty members or supervisors and/or managerial employees.

And implicit within that is the fact they may also be tainted with a physically secured or not by such personnel through the support of such personnel in obtaining of those cards, whether they were physically secured by someone else or not.

It is our position that your rulings as you know with respect to these issues when they were previously raised are incorrect.

A That he encouraged us in every way.

Q I didn'task you for a conclusion.

A We said --

Q I asked you to tell us what happened at the meeting.

A I hve no recollection of the exact wording but I recall that we reported to him on -- the success of the course, it's popularity with the students and the great stimulation everybody derived from it andtherefore we wanted to extend its scope by adding another semester to it.

Q B y dealing with the decline?

A Yes.

Q Is thatcorrect?

A Yes.

So that the students should know how it came out.

Q Now, didyou get a letter from the dean that said you could give that course?

A I don't recall getting anything written.

Q You didn't get a memo, you didn't get anything in writing that you could give the course?

A Not that I recall.

Q In fact, you continued did you not to use the other procedures that are available to get the course approved?

A Well, once we had the dean's approval we went to the

English Department.

Q Were you encouraged by the dean or did you have his approval -- which did you have now?

A Oh, we were encouraged.

Q The dean is a scholar, is he not?

A Yes.

Q In hisown right?

A Yes.

Q What is his field of specialty?

A Linguistic and literature.

Q And this course was a course in what?

A Literature.

Q In the decline of humanism --

A Tracing an idea in literature.

Q And you brought the reading list to the dean?

A We did.

Q And you discussed the reading list with the dean, did you not?

That is one of the reasons you brought it there, I assume?

A Yes, but I think we discussed the general idea, not th merits or demerits of the reading list.

Q And the dean encouraged you to proceed further?

A That's right.

Q You have no letter of approval from the dean, do

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you?

A Not that I recall.

Q Where did you proceed further to?

A The English Department.

Q What did you do in connection with the English Department?

A We had to justify the course.

Q Say that again.

A We had to justify the giving of the course.

Q I see.

Now, how did this take place?

A Through a lot of give and take and we had to respond to criticisms from members.

Q Was there a meeting of the English Department on this subject?

A Yes.

Q And was there ultimately a vote taken with respect to whether the course should be recommended to the division?

A Yes.

Q Was that vote affirmative?

A It was.

Q Where did you go after that?

A We went to the division.

Q What do you mean by that?

A Well, once the proposal had been approved in the departent the next step in the machinery is the difference of fine arts humanities and I forget the full title, approval has to be obtained there.

Q How did you go about getting that approval, as best you can recall?

A A meeting was called of the division members and we presented the syllabus, and again answered possible objections or criticisms.

Q Was it approved?

A Yes.

Q Was there a vote?

A Yes.

Q What happened after that?

A Then we wen to th e curriculum committee.

Q By then, I assume you were no longer chairman of that committee, or were you?

A I may have been on the committee at the time. I am not sure now.

Q All right.

Tell us what transpired in the curriculum committee?

A The same thing.

We had to justify the giving of the course, present the syllabus and answer any questions.

Q Was there a vote in the curriculum committee?

A Yes.

Q Was it approved?

A It was.

Q Then where did that report of approval go?

A I think that was the end of the line.

I think then the course was given.

Q Isn't it a fact that the curriculum committee reports to the faculty senate?

By that I mean, the faculty student senate.

A Well, at that time I am not sure whether there was a senate yet or it may have been in the process of formation.

Q Isn't it a fact that the curriculum committee is part of the faculty assembly?

A Yes.

Q And has the obligation of reporting to that assembly?

A Yes, it does.

Q But you don't recall whether they reported with respect to your course?

A Because that's just a matter of routine.

Q Except in the case of parliamentary procedure course you mentioned where apparently it was not a matter of routine, is that right?

A Well, I don't recall that this course was reported somewhere -- I'd say '70, '71, '72, somewhere around there.

Q Could you tell us at the begining the steps that were taken and what transpired bringing that course into being?

A Well, Prof. Levy approached me and said that he had talked to the dean about giving of an interdisciplinary course and the dean had suggested that he come and see me, and sowe then began to talk about syllabus and structure of the course.

And then we went through the same process of going through --

Q The department?

A Well, first we took the syllabus to the dean, and then the department and the divison and the cirriculum committee.

Q Did you meet with the dean in his office?

A We did.

Q Whatdid you say to the dean and what did he say to you and Prof. Levy?

A Well, again I cannot recall any actual words but I do have the impression again that he encouraged us.

Q He didn't write you a letter of approval, did he?

A Not that I recall.

Q Or a memorandum of approval ?

A I don't recall any.

Q I n fact, Prof. Weidhorn, with the exception of the experimental courses during the university term, the dean would not have authority to approva a new course, would he?

A I don't know.

It seems that every course that I know about always begins with the dean.

Q You spoke to the dean about the course in music, didyou not?

A Yes.

Q He encouraged you, did he not?

A Yes, he did.

Q But he didn't give you approval, did he?

A It seems to me that encouragement is more than approval.

Q That would be for the reader of the record to determine.

Can you produce any memo, letter, document showing approval --

MR. SHECTMAN: That is argumentative.

Q -- with respect to any of the three courses that we just discussed?

MR. SHECTMAN: I will object to this question as argumentative.

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MR.KRAMER: Can we go off the record?

HEARING OFFICER: Off the record.

(Discussion off the record.)

HEARING OFFICER: On the record.

BY MR. KRAMER:

Q You do not attend senior member meetings?

A No, I do not.

Q You told us that seven or eight years ago the faculty passed a set of statutes and that the president ofthe institution refused to approve a portion of those statutes relating to departmental chairmen and departments, is that right?

A Yes.

Q And in connectionwith this you advised the hearing officer that for this reason Dean Bacon had been in error when he said that actions of the faculty assembly had uniformly been approved, do you remember that?

A Yes.

I said it was a pocket veto.

Q And do you remember your comment about the dean, it was ju-t this morn ing?

A Yes.

Q I show you Employer's Exhibit 53, which is in evidence in this proceeidng and more particularly, page four and five of that document pertaining to departments, departmental organization, representatives, meetings of departments and departmental chairman and representatives.

I aks you whether there is a line drawn through those sections.

A Yes, there is.

Q You have been here through the course of the hearing for the most part, have you not?

A Yes.

Q Were you here when Dean Bacon explained that deletion?

A I may have been.

Q But you may not have been?

A That's possible.

Q Which would explain your refernece this morning to Dean Bacon in your testimony.

Would you like to retract that reference at this time?

A Well, I double-checked by consulting Dean Bacon a few weeks ago on this matter.

MR. KRAMER: Mr. Hearing Officer, rather than have the witness read Dean Bacon's testimony and then ask him whether he would like to retract I'd simply refer the reader of the record to Dean Bacon's testimony with respect to the deletion of the section involving departments and department chairmen from Employer's Exhibit 53, wherein he explains at length that this was done by the president of the institution and the facts and circumstances surrounding that.

MR. SHECTMAN: I would like a moemnt --

MR. KRAMER: If you would like I will find the pages and put them --you know, note them for the record, but I would hope that wouldn't be necessary.

MR. SHECTMAN: I would like a moment to look at the record, Mr. Hearing Officer.

In response to Mr. Kramer's last comment, I would like to refer the reader of the record to page 2348, in asking -- and ask Dean Bacon if he would like to make a retraction.

MR. KRAMER: Let us look at the record.

We will make no comment.

Dean Bacon is not on the stand.

We will review the record. We will see who has to make what kind of retractions.

I don't think Dean Baconis going to have to make any kind of retraction.

MR. SHECTMAN: I hope we can proceed.

MR. KRAMER: No.

I think it is prejudicial to raise a point like that and then drop it and ask to proceed.

HEARING OFFICER: Have you any particular page to through on this point.

I will not persist in delaying this any further and I will deal with it at some other session of this hearing or in the brief as the case may be.

HEARING OFFICER: Continue then.

BY MR. KRAMER:

Q Can you giveus any other time, putting aside the question of whether the deletion from the faculty constitution of the refernces to the departments and department chairmen, putting that aside, can you give us any other example of a time when a recommendation approved by the faculty assembly was vetoed as you put it by the president of the institution?

We are talking about now the last seven or eight years.

This is thetime that the assembly has been in existence.

A Well, about ayear and a half ago the faculty addressed a letter to the president, Belkin, on the retirement question and he never even rsponded.

Q Did the faculty assembly pass on a resolution on that question?

A Absolutely.

Q Any other time now in eight years that he has by your testimony vetoed an action of he assembly?

A Actually there were several resolutions, at least three that I know of on this retirement question, and they -- the first two were completely ignored.

Q What happened to the third one?

A The third one just the other day we received a letter from President Belkin in which he says that the faculty!s posibion is baseless.

Q So twide he disagreed.

Any other times?

A No.

The first two times he didn't respond at all.

Q Give us any other examples of his use of veto power in eight years.

A I don't recall at the moment.

Q There were two instances, this question of retirement of a particular faculty member I assume --

A No, on the general retirement question, the interpretation of it.

Q And the question of the en abling document itself, which was the constitution?

A Yes.

Q In eight years?

A Yes.

Q You tell me that there are six to ten faculty meetings a year.

period at the school?

A yes.

Q And those were the time when those two agendas came out without the subscription?

A Apparently, yes.

Q They were not in the fall?

A No.

Q Any testimony that -- to that effect would stand corrected?

A That's right.

Q Now, you told us that seven years ago the welfare committees dealt with grievances of faculty members my notes show.

Further, that three faculty members were involved, Prof. Chernowitz, Prof. Siev and Prof. Weidhorn, that's you.

A Yes.

Q Is that right?

A Yes.

Q What was the nature of the grievance thatyou had?

AI was promoted from assistant to associate professor at the same time that this general salary increase went into effect and as a result I received only the general increment that was given to all associate professors with no bonus for the promotion.

Q A salary problem?

A That's right.

Q Where did you go with that problem?

A To the welfare committee.

Q What did the welfare committee do with it?

A I brought them a letter -- well, first I spoke verbally and the chairman told me to write a letter and for the next two years the matter was more or less hanging in the fire and I was told verbally by the chariamn of the welfare committee that Mr. Levine who was then vice president for business affairs had verbally conceded that thre was a grievance here, and it would be corrected, but this is now paraphrasing the remarks of the welfare committee chairman.

He wouldn't put anything in writing.

And then about two or three years later -- this is two or three years after I raised the issue, Dean Bacon ente into the picture, called me in to his office and said that h thinks that there is no merit to my charge, but that he would be willin gto get me $300 raise if I would be willing to drop the thing.

And on thinking it over, I decided I would accept that proposal.

But he asked that I write a memo indicating my acceptance of that.

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A I don't know whether a part-time faculty membrt would be allowed to each the Shakespeare or 17th Centruy courses which are advanced courses.

Q Can you show me anything in the faculty handbook, statutes, senate statutes, or any otherrules or regulations to support that conclusion?

A I see what you mean.

I have to qualify that.

I understood by par-ttime as the case with many part-timers, we -- people who do not have PhD's.

Q I use the term part-time -- part-time faculty member could teach those courses, could he not?

A If he has a Phd.

Q He is able to teach the course as well?

A Yes.

Q And full-time faculty member could teach those courses if he was able to?

A Yes, but in the practice most part-time members do not fall into that category, not having a Phd and therefore would not be allowed to teach those courses.

Q Not allowed by who?

A By the dean.

Q Can you show me any rule or regulation that determines whether the dean will allow or not allow this?

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A It may not be written byt I do know of a colleague of mine in the English Department who has not been given any advanced elective courses in the field because he doesn't have the PhD even though he's been there for 16 years.

Q That is a subject of discussion in departmental meetings from time to time?

A No.

Q You dn't attend a senior member meeting, do you?

A No.

MR. KRAMER: I have no further questions.

HEARING OFFICER: Any questions?

MR. SHECTMAN: Yes.

REDIRECT EXAMINATION

B YMR. SHECTMAN:

Q What percentage of the members of the English Department, full-time faculty, have PHD's?

A It's six out of seven, which is 84 percent.

Q Do you know the percentage of faculty who are part-time who have PhD's?

A In the En glihs department?

Q Yes.

A You mean the percent?

Q Yes.

I can show you a list.

A It's zero.

MR. KRAMER: Are there any -art-timers in that department?

THE WITNESS: Oh, yes, right now there are at least three and none as far as I know has a PhD.

Q Did the faculty assembly approve by resolution the salary scedule, salary rates that were in effect for the academic year 1971-1972?

A Well, it had approved the original schedule in 1968.

Q And that approval was by faculty resolution, was it not?

A Yes.

Q And that wasat a faculty assembly meeting, was it not?

A Absolutely.

Q And the president overrode that resolution and rescinded any paymens and increases in salary for that year, did he not?

A In 1971-72, yes, that's right.

Q On cross-examinationyou referred to a resolution passed b ythe faculty concerning matters of retirement and the failure of the president, Belkin, to respond, did you not?

A Exactly.

A

Q According to the process thathas been describedfor the establishment of new courses, are there generally new courses established year to year?

A I cannot say whether new courses are established each year, but from time to time there are new courses, yes.

Q And from time to time are there courses dropped from the curriculum at Yeshiva College?

A Once in awhiloe a course may be dropped but the usual procedure is that if there is no regist ration the cours is simply not given that semester or year.

Q And if it is a full-time faculty member who was to teach that course, he or she would be assigned to teach another course in lieu thereof?

A That's right.

Q If it is a part-time faculty member that is assigned to teach that course?

A Then he just is out of a course.

Q Do you know all the com mittees that existed at Yeshiva College as of this date?

A I am not sure what you mean by know.

Q Know of or familiar with.

A Well, I've seen the list -- yes, it is circulated by the dean at the beginning of each year I think, or the middle of the year.

Behrends.

HEARING OFFICER: Give your name to the reporter.

THE WITNESS: Ralph Behrends.

HEARING OFFICER: Raise your right hand.

Whereupon,

RALPH BEHRENDS,

having been first duly sworn, was examined and testified as follows:

MR. KRAMER: Can we go off the record for a second?

HEARING OFFICER: Off the record.

(Discussion off the record.)

HEARING OFFICER: Back on the record.

DIRECT EXAMINATION

BY MR. SHECTMAN:

Q Professor Behrends, by whom areyou employed?

A Yeshiva University.

Q And where are you employed?

A At the Belfer Graduate School of Science.

Q And in what position?

A Professeor of physics.

Q When did you join Yeshiva University?

A September 1, 1961.

Q And by whom were you appointed to the faculty of the university?

A By president Belkin.

MR. SHECTMAN: I offer to be marked for identification a letter from President Samuel Belkin to Dr. Ralph Behrends dated April 11, 1961.

(Document referred to marked Petitioner's Exhibit 114 for identification.)

Q I show you Petitioner's Exhibit No. 114 for identification.

Is that the letteryou received from president Belkin notifying you of your appointment?

A Yes, it is.

MR. SHECTMAN: I offer the exhibit into evidence.

HEARING OFFICER: Any objection?

MR. KRAMER: No objection.

HEARING OFFICER: Received.

(Petitioner's Exhibit 114 for identification was received in evidence.)

Q Professor, are you a tenured member of the faculty?

A Yes, I am.

Q When did you obtain tenure?

A When I started my eighth year according to the

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faculty handbook.

Q When was that?

A I guess in 1969 when I started in '69.

Q In what rank were you appointed to the university?

A Assistant professor.

Q And when were you promoted?

A I was promoted in '62 to an associate professor; in '66 to full professor.

Q And by whom did you receive notice of your promotions?

A President Belkin.

MR. SHECTMAN: I offer for identifiction as Petitioner's Exhibit 115 a letter addressed to Dr. Ralph Behrends from president Samuel Belkin dated August 23, 1966.

(Document referred to marked Petitioner's Exhibit 115 for identification.)

Q I show you Petitioner's Exhibit 115 for identification.

Is this a true and accurate copy of the letter you received notifying you of your promotion?

A Yes, it is.

Q Did you receive any letter from the deal of Belfer notifying you of that promotion?

I also work with a doctor at Lenox Hill Hospital to do research.

Theremay be other things that I do but I can't remember them right offhand.

Q Do you do any work with regard to the preparation or conduct of PHD examinations?

A Yes.

We have to give PHD qualifying exams twice a year. Those exams have to be prepared.

I am usually involved in that to a greater or lesser extent depending on which year it happens to be.

We -- after the students take the written exam we have to give them oral exams.

I am usually on oral committees.

From time to time I am also on thesiscommitttes.

In the past of course I havehad thesis students, too.

Q Now, you referred to some work you do at the Lenox Hill Hopsital.

Is that outside employment as distinct from your employment at the university?

A Yes.

It is a -- it is outside employment.

Q And were you required to obtain permission for that employment?

A Yes.

Since I am a full-time faculty member I am required by the faculty handbook to request such permission from the president of the university.

Q And did you request such permission?

A Yes, I did.

Q Did you describe -- could you describe the course by which you sought permission?

A I received notification I guess from Dr. Fishman, forwarded by Dean Comar, suggesting that we -- if we had outside employment that we should request permission to carry out such outside employment.

So I wrote a letter and asked that Dean Comar who I should address it to.

He said to address it to him, so I did, and he forwarded it and I received the authorization from Dr. Fishman.

Out of curiosity I asked Dean Comar if this was sufficient --

MR. KRAMER: I have to object at this point.

The correspondence ends with the receipt of the authorization and the remaining material is unresponsive to the question.

HEARING OFFICER: I will sustain the objection.

Q Did you find out whether the authorization you obtained from Dr. Fishman is sufficient to meet the requirements of permission from the president?

A Dean Comar assured me.

MR. SHECTMAN: I offer to be marked for identification as Petitioner's 116 a letter to Professor Ralph Behrends dated Septemer 5, 1974 from Joshua A. Fishman, vice president for Academic Affairs.

(Document referred to marked Petitioner's Exhibit 116 for identifiation.)

Q Professor, I show you Petitioner's Exhibit116 for identification.

Is this the approval or authorization you received from Dr. Fishman?

A Yes, it is.

MR. SHECTMAN: I offer the exhibit into evidence.

MR. KRAMER: No objection.

HEARING OFFICER: Received.

(Petitioner's Exhibit 116 for identification was received in evidence.)

MR. SHECTMAN: Off the record.

(Discussion off the record.)

HEARING OFFICER: Back on the record.

BY MR. SHECTMAN:

Q Professor, what committees of the Belfer School and the university do you presently participate on?

A Well, at Belfer as a full-time faculty member I am a member of the faculty council.

I am an elected member of the faculty committee.

I am the chairman of the faculty welfare committee and in the past I was a member of the academic credentials committee.

Q On a university-wide basis are you on any university committees?

A Yes.

I am the elected representative to the council of graduate schools, to the academic planning and priorities committee or the resource allocation committee, and on the committee planning for a senate.

Q Are you on or have you served on the BA/MA committee of physics?

A Yes.

I still am on that.

Q You indicated that as a full-time me[illegible] the faculty you were on the faculty council.

Who else comprises the membership of that council?

A Well, the president of the university, the dean of the Belfer School, the associate dean of the school and all full-time professors, associate professors and assistant professors excluding adjunct and visiting staff.

Q How often does the faculty council meet?

A There are two staatutory meetings in May and October.

Q And in the last two or three academic years how many times has it met each year?

A Except for last spring it's been meeting twice a year.

Q And have you attended all of those meetings?

A I would say the vast majority of them. I may have missed one.

Q Who presides at those meetings?

A Dean Comar, ex oficio.

Q And could you describe matters of consideratino that have come before the committee, that are typical of those that come before it?

A Before the faculty committee?

Q Yes.

A The faculty council?

Q Yes.

A Well, the faculty council represents the faculty and is advisory to the dean and the president and so in fact any of the library committee of the Belfer School, and trying to reach a decision.

Q Can you describe any other matters?

A Yes.

A few years ago the suggestion of the faculty welfare committee, the faculty council constituted itself as a unit to bargain with the administration on salary increments.

Q Did you -- do the part-time faculty attend the faculty council meetings?

A Generally not.

We only have two part-time faculty members and Pteer Bergman may have -- who is one of them, may have shown up at one or two of the meetings.

Q Can part-time faculty vote at those meetings?

A No, they are not allowdd to.

Q You testified thatyou were on the faculty committee, is that right?

A Yes.

Q Who makes up that committee?

A Well, agin, the president of the university, the -ean of the Belfer school, the dairman of each of the departments, one elected representative from each of the departments, one elected representative from math, physics and chemistry elected by the faculty council.

Q How often does this committee meet?

A Well, it usually meets just before the faculty council meeting and in addition it may meet on other occasions and has, in fact.

Q What is the purpose of it meeting just before faculty council meetings?

A It is advisory to the faculty council and hence presents sort of -- sort of filters and puts into form the ideas that should ge presented to the faculty council.

Q Did the faculty committee at -- did it meet this past fall?

A Yes, it did.

Q Andwhat were the subjects raised at that faculty meeting?

A Well, there was a question that I mentioned before about the library committee.

MR. KRAMER: Until it is established that the meeting took place prior to the filing of the petition here, we would suggest -- it is irrelevant.

We have really tried not to object on this ground but the case goes on and on and what we simply do is continue to just by sitting here establish more and more facts.

Q All right.

And this copy was the copy that was approved?

A Yes.

When he sends it around, the final copy around, it is after all the objections have been taken care of.

Q Now, Dr. Behrends, these minutes do not purpurt to be verbatim minutes, do they?

A No.

MR. KRAMER: I have no objection.

HEARING OFFICER: It is received.

(Petitioner's Exhibit 117 for identification was received in evidence.)

BY MR. SHECTMAN:

Q You testified that you are in the university committee to study the formation of the faculty senate?

A Yes.

Q What was that committee formed?

A Sometime in the fall of last year.

Q And does there exist a facutly senate at this time?

A No, there does not.

Q How were you designated as a member of that committee?

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A I was elected by the faculty council.

Q Was an yone else from the Belfer faculty elected to serve on that committee?

A Yes, Dr. Patt.

Q And what faculty from Belfer currently represent the Belfer School on that committee?

A I do and Dr. Matis.

Q What happened to Professor Patt?

A Dean Comar decided that he didn't wan tDr. Patt to represent the Belfer School at the committee plan senate so appointed Dr. Matis instead.

Q When was the electionheld for the representatives?

A It was held -- I believe at the faculty council meeting -- prior to this -- to the October 31st, I am notsure, but it was sometime -- it was before the committee to plan senate had been formed.

Q Was this fall or spring?

A It was last fall. It was sometime in October or possibly late September.

I am not sure.

Q Who received the most votes?

A I received the most.

Q Who received the second most?

A Dr. Patt.

MR. KRAMER: I have to object.

What earthly difference can it make who received the most votes and who received the next to most votes and next to most after that.

We can take a poll.

HEARING OFFICER: I assume counsel for the petitioner is going to show that the elected representative of the faculty was removed, not by a faculty action.

MR. KRAMER: He's already testified to that.

If it is true, we will find out but asking who got the most votes and next to most votes --

HEARING OFFICER: I think petitioner is building his case, supporting his case is not prejudicial at this point and I will allow the testimony to go into the record.

Q Were there other people on that ballot?

A Yes.

Q You and Professor Patt received the most votes?

A Yes.

Q It had been agreed that the persons receiving the highest votes would be appointed to the committee?

A Yes.

Q And who had -- who had agreed to such a procedure?

A The dean and the entire faculty council.

Q At a duly-held faculty council meeting?

A Yes, at that meeting.

Q And did the dean at that meeting indicate that he would not accept --

A No, he did not.

Q And how did it come about that the dean replaced Prof. Patt?

A After the meeting the dean objected.

Q To whom?

A He brought it up to several faculty members and finally I got the word of it and I went and talked with the dean.

Q What did he tell you?

A He said he objected to Dr. Patt being on the committee, and I tried to make a compromise of the situation but I was unable to.

Q Did -- at the faculty council meeting at which the election was held, how many members of the administration were there?

A At the faculty --

Q Faculty council meeting where the election of you and Prof. Patt was conducted, at that meeting, how many members of the university or Belfer administration were present?

A Only Dean Comar is the only administrator of the school.

Q Did Dean Comar vote?

A I am not sure.

It was by secret ballot.

I would guess he wouldn't since he was chairing the meeting.

Q And everyone else voted?

A Yes.

Q And who announced the results of the vote?

A Dean Komar.

Q How many times has that committee to study formation of faculty senate met?

A Well, it was meeting on an average of once a month for approximately two hours but the last two meetings it has met for four hour periods once a month.

Q And who serves on that committee with you?

A Well, the other representatives of other schools plus Dr. Fisman, Dr. Sokal and Dr. Miller who is the vice president for student affairs.

And then --

Q That is not Professor Martin Miller from the Ferkauf School?

A No, this is Israel Miller and then also Rabbi Harloff is there -- he's the director of Yeshiva program but I believe he is acting in the capacity as representative from the Yeshiva program but it's not clear in my mind.

Q

board of trustees?

A No.

Q Are there any students on the board of trustees of the university?

A No, there is not currently.

Q You testified also that you were a member of the council of graduate schools.

A Yes.

Q Who makes up the membership of that council?

A Well, there are six graduate schools.

There are two faculty representatives from each graduate school, two students from each graduate school an d then a total -- tha totals up to 12 faculty members, 12 students and there are 18 administrators.

Q What is the role of that --

MR. KRAMER: Mr. Hearing Officer, once again, if counsel has underlying by-laws and documentation as I understand it does, that would be the evidence of what its statutory purpose would be.

Beyond that the questionis conclusory;if the witness was asked wht is being done, that's another matter, what transpired at the meeting.

From that the reader of the record can adduce what the purpose of the committee is.

Q Professor, can you tell us some of the redent

Q Professor, was any specific action taken as a result of that resolution thatyou know of?

A No.

Q Could you give us another example of matters considered by the council for graduate schools?

A The foreign language requirement for PHD, Professor Silverman of the administration was suggesting that there should be some unified policy in all the gradate schools giving PHD's on a language requirement.

That was discussed and the graduate school representatives opposed the idea and -- so the language requirement was -- remains as it is up to the discretion of the individual schools or departments.

Q You testified that you were also a member of the faculty welfare committee.

Is that a committee at the Belfer School?

A Yes, it is.

Q Is that a standing committee at the Belfer School?

A Yes, it is.

Q What are its statutory powers?

A To discuss the questions of wages and fringe benefits and tenure with the administ ration and other matters I guess of working conditions.

Q When were members of the Belfer faculty designated as members of the welfare committee?

A In the October 1972 meeting of the faculty council, the faculty welfare committee was formed.

Q And subseqjent otthat was there an election of specific members of the faculty to the welfare committee?

A Yes.

At first it was that the faculty committee is -- as a whole would act as a faculty welfare committee and then later I believe in '73, it was decided to change and make the faculty welfare committee just -- at a faculty council meeting, to change it to just five or six members.

Q And who was electdd at that meeting?

A I was elected, Dr. Patt was elected, Dr. Matis was elected, Dr. Coburn and Dr. Berger, I guess Dr. Berger for six months and then Dr. Coburn was coming back and he would then take the place of Dr. Berger.

Q Dr. Spindel?

A Dr. Spindel, yes.

Q And those persons were elected by the --

A Faculty council.

Q Comprising --

A The welfare committee.

Q But they were elected by the entire faculty?

A By the entire faculty council, yes.

The entire faculty.

I am sure the reader of the record can draw his own conclusions from the appeal that was granted herein.

HEARING OFFICER: Very good.

BY MR. SHECTMAN:

Q Professor Behrends, did the proposals of the faculty welfare committee to the university include proposals to increase the salaries of department chairmen?

A Yes.

Q To increase the salaries of principal investors?

A Yes.

Q And to increase the salaries of part-time faculty?

A No.

Q To increase the salaries of anyone -- any employees under a grant other than the principal investor?

A No.

Q In the academic year 1972-1973 without describing the proposal, did the faculty welfare comittee make a proposal to the university?

MR. KRAMER: I must object on the grounds that it pertains to a course of dealings between the university and the faculty welfare committee, the very subject the regional director dealt with.

I did not obje- ton the question of whether the welfare committee made proposals on behalf of part-timers, in light of the comments that were made yesterday by

A Once every two or three weeks on the average, I believe.

Q Who generally attends those meetings?

A All the members of the physics department.

MR. KRAMER: Can we go off the record?

HEARING OFFICER: Off the record.

(Discussion off the record.)

HEARING OFFICER: Let's go back on the record.

We are going to break for lunch now --

MR. SHECTMAN: Can we go off the record?

HEARING OFFICER: Off the record.

(Discussion off the record.)

HEARING OFFICER: Back on the record.

Petitioner's counsel has expressed an inability to return this afternoon, and as such we will adjourn today and continue on April 15th, Tuesday morning, at 10:00, and we will meet also on April 17th at 10:00, with a possibility of concluding the hearing.

The hearing is now adjourned.

(Hearing adjourned at 12:50 p.m.)

(Hearing reconvened at 12:51 p.m.)

HEARING OFFICER: On the record.

MR. KRAMER: Mr. Hearing Officer, in the hearing of Thursday, April 10th, there were references in the testimony both on direct and on cross to whether the

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HEARING OFFICER CHAIET: On the record.

The hearing in the case of 2-RC-1662 is reopened.

Mr. Shectman has returned Petitioner's Exhibit 116 which has been received into evidence before and copies have been given to the parties.

Mr. Shectman, your first witness.

MR. SHECTMAN: We recall Ralph Behrends.

Whereupon,

RALPH E. BEHRENDS

having been previously sworn, resumed the stand and testified further as follows:

HEARING OFFICER: Mr. Behrends, you understand you are still under oath?

THE WITNESS: Yes.

HEARING OFFICER: All right.

Begin, Mr. Shectman.

CONTINUED DIRECT EXAMINATION

Q (By Mr. Shectman) Mr. Behrends, do you have any corrections of your testimony on a prior date?

A Yes, I do.

You asked me whether anyone was hired last year and I referred to Professor Pollack and Professor Beck, whether they were hired and they were hired last year.

But then for some reason I began to think of Bell, Q How do you know Charles Patt?

A He is a member of the faculty of the Belfer School.

Q Does Professor Patt have any other role at the University?

A Yes.

MR. SHECTMAN: I withdraw that.

Q Does Professor Patt teach any courses at the Belfer Graduate School?

A Not at the Belfer Graduate School.

I believe he teaches at Yeshiva College, two courses.

Q But he is atrached to the Belfer School?

A Yes.

Q Does he have any responsibilities besides teaching those two courses?

MR. KRAMER: Mr. Hearing Officer, I think a foundatio has to be laid with respect to the knowledge of this man's responsibilities so that the reader of the record understands from what vantage point this witness is testifying.

The Dean of the School testified that he works intermittently as Assistant Dean.

That is in the record.

The degree to which Patt works with Professor Behrend and the amount of time is an observation that Professor Behrends has not established in this record and we get conclusions of testimony.

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MR. SHECTMAN: I will withdraw the testimony, Mr. Hearing Officer and take objection to Mr. Kramer's characterization of Dean Komar's testimony.

MR. KRAMER: Mr. Hearing Officer, as you know Professor Patt has been in this hearing room on several occasions and is available to testify in this proceeding.

He is not in the hearing room this morning and obviously the amount of loose testimony you permit should be colored by the fact that Patt is available to come in and testify about what he does.

It is very difficult for me to examine Behrends about that.

HEARING OFFICER: Let us not get started.

I have already stated on the record that I agree with your position as to the basis for testimony by the witness.

Any comments as to characterization of testimony by Counsel will be disregarded by the reader of the record.

The testimony is in the record and will be taken into account from that source.

Q (By Mr. Shectman) Professor Behrends, could you describe the contact you have with Charles Patt at the Belfer Graduate School?

A Yes.

Aside from his being a faculty member who I am associated with at the school, I'm also the student adviser for the Physics Department and, as such, have to deal ultimately with the Registrar's Office and the Admission's Office, and Dr. Patt acts as liaison between those.

MR. KRAMER: Mr. Hearing Officer, I must object to the use of conclusory material and ask that you direct the witness to talk about facts, not his conclusions as to what Dr. Patt does or doesn't do.

Words like "liaison, advisory responsibility" are all conclusory.

MR. SHECTMAN: If the witness would be allowed to answer the question I believe the witness would be spelling out what he is doing with Charles Patt.

MR. KRAMER: Mr. Hearing Officer, what we will get is just simply one conclusion on another which will appear in the briefs.

HEARING OFFICER: Go ahead.

Try and state the actions taken that you are basing your conclusions on.

A For example, when a student applies for admission to the University his records go to the Admissions Office.

He supplies his records to the Admissions Office.

Finally, after he has paid his $10 fee, we have no knowledge in the Physics Department that he is even applying upon he pays his $10 fee.

Q (By Mr. Shectman) This is a new student you are referring to?

A Right.

So when he pays his $10 fee, then that record is sent over to the Belfer School.

That record is put up on the 12th floor in the secretary's office to the Dean and finally I am made aware either by Charley Patt or by going up there myself and looking at what the new applicants are.

I then have to -- we have to make a decision whether the student is going to be admitted or so on, if he is to be admitted or so on and I sign the form which is put in the folder when the case is complete and it goes back to Charley Patt.

I believe he signs it and then goes back to the Admission's Office..

In terms of dealings with the Registrar, matters again come to the Belfer School and then Charley Patt will bring it to my attention, send me a memo that he has been contacted by Larry Waxman I think who is the Assistant Registrar who deals with the Belfer School, that Mr. Waxman wants to know some information on a specific student, and Charley Patt will send the memo on to me and ask me to respond on it.

HEARING OFFICER CHAIET: In what capacity is Professor Patt passing on these messages to you?

As a Professor or in another capacity?

THE WITNESS: Well, I imagine it is on the basis of his being the Assistant Dean.

MR. KRAMER: Mr. Hearing Officer, the "I imagine" -- if the witness is testifying from knowlege that is one thing, but if he is imagining or guessing, that is quite another.

I must remind you that Dr. Patt is available in this town and could be put on as a witness to testify firsthand as to what he does and doesn't do.

It is established in the record that he is an Officer of the constituent body of the petitioning labor organization.

MR. SHECTMAN: Mr. Hearing Officer, I am trying to or the Petitioner is trying to expedite these hearings and bring them to a close.

Accordingly we will proceed with the short line of questioning that we have with this witness.

Q (By Mr. Shectman) Professor Behrends, how were the course schedules for the Physics Department determined this year?

A Well, we have a meeting, a departmental meeting and the courses are listed up on the blackboard that have to be taught for the year.

The faculty members make their choices as to which courses they would like to teach for the year.

Then the times have to be set as to when the courses will be offered in order to avoid any conflict.

For instance, there are four or five first year courses in the Graduate School at which a normal entering student would take and those cours es can't be scheduled at the same time so there would be a conflict.

So we arrange it so that the timing is proper for those courses.

Then, as student adviser I take the name of the course, who is teaching it and the hours to be given, to Charley Patt.

Q Is the selection of the courses done by consensus of the parties?

A Yes.

MR. KRAMER: That is a leading question, Mr. Hearing Officer.

I would ask that the witness be asked how they go about doing this.

He told us how already now and we will get the conclusion.

HEARING OFFICER: Rephrase the question, Mr. Sheotman.

Unfortunately, we don't have the opportunity to clear questions through Counsel before they are asked.

I understand your objection.

MR. KRAMER: Mr. Hearing Officer, the conclusion of what will be cited in this brief, not the facts --

HEARING OFFICER: Rephrase the question, please.

MR. SHECTMAN: I command Counsel for the University for his clairvoyance.

MR. KRAMER: Yes, it doesn't take much, having gone through the Adelphia and Fordham cases to know what the Petitioner will cite in his brief.

MR. SHECTMAN: Nor does it take much for the Petitioner to know what issues will be raised here.

Q (by Mr. Shectman) Professor Behrends, does anyone present at the department meetings assign the courses which are to be taught?

A No.

Q How are questions of conflicts over who will teach what course resolved?

A Between two people who want to teach the same course.

Then they sort of argued it out amongst themselves, the two who want to teach the same course.

It often happens, you know -- not often, but out of schedule of the courses there may turn out to be one course that two people want to teach and one course that nobody cares to teach and finally, just in the act of being cooperative one will choose to take a course that he didn't really specifically want and the other one would take it with sort of the understanding the next time around the choices will be made differently.

Q Has Charles Patt or the Office of the Assistant Dean ever assigned the course schedules for the Physics Department?

A No.

Q What course are you teaching at the Belfer School this year?

A Electricity and magnetism.

Q Did you receive any assignment as to where that course would be taught?

A Yes, I did.

Q Do you recall what that assignment was?

A It was on the second floor.

At this time I'm not sure which room number it was.

Q Where is that course currently being taught?

A In my office on the seventh floor.

Q Do you have personal knowledge as to whether any other members of the faculty teach courses in their offices?

A Yes.

Q Are those locations or sites for the teaching of courses assigned to them?

A If they have made the express request to have their courses taught in their offices they will have their offices assigned.

If they don't make any request specifically, and I'm the one that has to take all of this data to Charley Patt, then they are automatically assigned by Charley Patt in some room to teach in.

I don't recall having taken down any specific requests for teaching in their specific offices, yet I know that some of them do.

For instance, Dr. Lebowitz.

Q When Dean Komar was President of Belfer School who called faculty meetings?

A Which faculty meetings?

Q Faculty council meetings?

A Dean Komar calls the faculty council meetings.

Q Who chairs the faculty council meetings?

A Dean Komar.

Q Who calls the faculty committee meetings?

A Dean Komar.

Q Who chairs those meetings?

A Dean Komar.

Q In the absence of Dean Komar by reason of illness or leave or any time at which he is not present during the school year has Professor Patt ever called a faculty meeting?

A Not to my knowledge.

Q Has he ever called a faculty council meeting?

A Not to my knowledge.

Q Has he ever called a faculty committee meeting?

A Not to my knowledge.

Q Has he ever presided at any meeting of the faculty?

A Not that I have been present at.

Q Has Charles Patt ever hired any members of the faculty?

MR. KRAMER: I object to the conclusory question to which we established that the witness has no background of knowledge or foundation of knowledge.

How does he know whether Charley Patt has hired anybody?

If he says no we will find out that he hasn't any knowledge.

HEARING OFFICER: Sustained.

Q (By Mr. Shectman) Professor Behrends, are new hires discussed at faculty council meetings?

A Generally not.

Q Do you serve on any committees with Charles Patt?

A Yes, I do.

Q What committees are those?

A On the faculty welfare committee, on the Council

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of Graduate Schools, on the Academic Planning and Resource Reallocation Committe.

I believe that is all.

Q How was Charles Patt selected for those committees, if you know?

A Yes, I know.

He was elected at a faculty council meeting.

Q Elected by whom?

A The faculty who were present at the faculty council meeting.

Q You testified before, did you not, that he was elected to one committee on which he is not serving now?

A That is right.

MR. KRAMER: Mr. Hearing Officer, those questions were asked at the last hearing at some length.

MR. SHECTMAN: I am only trying to clarify.

MR. KRAMER: We are being redundant.

MR. SHECTMAN: I am trying to clarify the list of committees the witness testified to so there would be no confusion for the reader of the record.

MR. KRAMER: Mr. Hearing Officer, my objection is that this has been gone over once at some great length by the way.

MR. SHECTMAN: Can we stipulate then that Charles Patt is not serving on the Academic Priorities --

MR. KRAMER: We are not going to stipulate to anything.

The testimony is already in the record, putting it in two or three more times and I don't think that is going to move us to a conclusion in this case.

HEARING OFFICER: Objection sustained.

MR. KRAMER: Mr. Hearing Officer, let the record show if you would that Mr. Patt has just come into the hearing room and is now present.

Q (By Mr. Shectman) Professor Behrends, what department are you in?

A Physics Department.

Q Who is the Chairman of that Department?

A Dr. Lebowitz.

Q How was Dr. Lebowitz chosen?

A He is elected by the department every three years.

Q Are there regular department meetings, Physics Department meetings?

A Yes, there are.

Q How often?

A They probably average about every two or three weeks.

Q Can you tell us the subject matters of those meetings?

A Well, as I described before there is a decision of what courses to be taught.

There are questions about the students.

For instance, when we get to the time of year which occurs twice a year when we have to have the Ph. D. qualifying and the Master's test, we have to get someone to make up the tests, the written tests and then in fact we just recently -- we are now looking over the tests before they are given, as a faculty, in the department, not just having him give -- make up the tests and give them himself.

Afterwards, after the test has been given the students have to take oral qualifying exams and so then we have to choose the various committees that will sit, usually three faculty members on each committee to examine the students.

We have to decide on the basis of the grades they got on the test, written part of the test whether we feel -- on the written part and on the oral part whether we feel that they have passed as far as a Master's Degree is concerned and/or whether they passed as far as a Ph. D. qualifying exam is concerned.

We spent a good deal of time discussing the question of the State, of the Evaluation Committee coming down to examine our Ph. D. program in Physics, and in terms of what should be said in the report and how we -- what stance we should take relative to the three investigators -- the two investigators who came down to examine our department.

We generally have to decide on who will be -- who will get to be the teaching assistants.

We have to decide on who -- if the grades aren't being kept up or is not performing, whether he should be continued on at the University.

Then, on occasion, if there is the opportunity, if the administration says that we have the opportunity to having another faculty member, then we discuss the possibilities and which section of the Physics Department should get a new member, whose turn it is in a sense, or if we lost somebody, there should be a replacement for that person lost.

The qualifications -- somebody becomes an advocate or a group of people become an advocate for certain faculty member to be brought to our school and he will be discussed, and the question will come up about when he should come and give us a seminar so that the whole faculty can see him.

We also have to discuss who will be at the various colloguia and seminars which are held each week.

We have to have outside speakers and usually somebody has to take the responsibility of doing that.

Often that person will ask if there are any suggestions as to people who are doing something interesting in one of the fields, and whether he should be asked to come and give a lecture.

Q Does the department chairmen attend these meetings?

A Yes.

Q How is action taken by the department on any of those questions or issues to which you have referred?

A It runs very informally and generally a consensus is arrived at.

At times there may be a vote, but the vote will be unanimous.

I can only recall one instance, I think, where there was a vote which was not unanimous.

The vote was lopsided, and that was for the election of our representative to the Faculty Committee.

Q Who was that representative?

A Dr. Cooper, but he has left now.

Q And by reason of that election was he or did he in fact serve as representative for that committee?

A Yes.

Q And the department chairmen does not appoint a representative to that committee?

A No.

Q You indicated that the department may consider certain issues as to the appointment of new faculty.

Did the department make any recommendations last year and, if so, to whom for the hiring of new faculty?

A Yes, we thought we suddenly had the possibility of making up to three appointments and I believe Dean Komar told us that this possibility existed so we decided that we would get one person possibly in microscopic physics and the name suggested by that group was Dr. Pollack.

Then the elementary particles group wanted a senior and a junior appointment because Dr. Landovitz, who was a member of the Physics Department left and we felt we would get a replacement for him.

Dr. Cooper was leaving and we felt we would have a replacement for him too.

So we made two suggestions, some that were --

Q To whom did you make those suggestions?

A To the department, came to a consensus that we would make these suggested faculty replacements and so when it was voted on and accepted by the department, then Dr. Lebowitz took it, who was the chairman, took it to the Dean and they went to the higher parts of the administration.

In a stipulation that we put there was that we were supposed to be informed that the University was not going to appoint all three, to let us know how many they would appoint, and we would make the choice as to which one would be the one that we would like to have appointed, and --

Q On what basis --

MR. KRAMER: I don't think the witness has finished his answer.

The last word he said was "and".

A (Continuing) And then what happened is they came back and told us that Fred Pollack was the one that was hired and that caused a little bit of a storm that we were bypassed and not given the opportunity of making the choice.

Q By whom was Mr. Pollack appointed?

A The president of the University.

Q On what basis or what considerations were discussed at the department meeting in choosing who and what areas of the department in fact they were needed for?

A Well, as I pointed out in elementary particles we were losing two people and to keep elementary particles physics as a viable section of the Physics Department we felt that we would have to have two other peole to replace these.

Otherwise it starts getting down to the point where you have one person in a field and that is just not a viable department, in that viable group in the department,

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because it is very important first to be able to talk to your colleagues and discuss your research and their research and ideas are created in this manner.

How you decide on who it is going to be is the specialists in the field look around and find out who they feel have the best professional qualifications.

Q Is it then your testimony that the department recommended the hiring of three persons?

A Yes.

Q With certain stipulations?

A Yes.

Q And were those stipulations complied with by the administration?

A No, they were not.

They did not come back to us and tell us there was only one appointment to be made, they made the choice.

t2

Q Does the Physics Department consider issues as to the promotion of faculty members within that department?

A Yes, we do.

Q Can you describe that, please?

A Well, the professors senior to the person being considered for a promotion meet and discuss the person's progress, his publications, his professional standing and if these measure up to the standards that we are

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trying to keep at the Belfer School or increase at the Belfer School, then this group will come to the conclusion he should be promoted and so recommended to the Adminisration and the Chairman of the Department would then take it to the Dean and then it will go up I guess to Vice President Fishman and then to the president.

Q Have all such recommendations been granted and acted upon favorably by the University?

A No, they haven't.

In fact, there was a freeze on promotions that started back in 1971 and it wasn't until last September or October that the senior faculty at the Belfer School met with President Belkin and he finally agreed to allow five or six promotions at the school which had been held up for quite a period of time to finally go through.

Q When was that meeting with President Belkin?

A In September or October of last year, '74.

Q Has the department chairman of Physics ever granted any promotion?

MR. KRAMER: Could I have that question back?

Q Has the department chairman of Physics ever granted a promotion?

MR. KRAMER: Mr. Hearing Officer, there is no showing this witness having any knowledge of whether the department chairman of Physics granted or didn't grant promotions

AFTERNOON SESSION

(1:30 o'clock P.M.)

HEARING OFFICER CHAIET: On the record.

Your witness, Mr. Kramer.

CROSS-EXAMINATION

Q (By Mr. Kramer) Dr. Behrends, are you a member of the Library Committee of the Belfer School?

A No.

Q Were you ever a member of the Library Committee of the Belfer School?

A No, I was not.

Q Did you attend meetings of the Library Committee?

A No, I did not.

Q Have you had opportunity to discuss the purported transfer of the library from the Belfer Building to some other building with Vice President Fishman?

A No.

Q With Vice President Sokol?

A No.

Q With President Belkin?

A No.

Q With the head librarian of the University?

A No.

Q You yourself have had no personal dealings directly with any member of the University administration in

A Only insofar as some departmental decision had been reached and Dr. Lebowitz was supposed to take this as the Chairman of the Department to the Dean and then he reports back with the results of --

Q Lebowitz has told you about those kinds of meetings, I take it?

A Well, he hasn't told us the conversations but he has told us the results, whether this person was accepted as a new faculty member to be hired, or things like that.

Q Based on your experience, Dr. Behrends, Professor Lebowitz has dealings with the Dean, does he not, outside of the formal settings that he has testified to?

A I am not sure that I know what you are referring to.

MR. KRAMER: I will allow the record to stand. I think you are.

Q Now, you told us on your direct testimony last week that you received the most number of votes from the faculty for the position of Belfer representative on the Faculty Senate Committee; is that correct?

A Yes.

Q And you told us th[illegible] Dr. Patt received the second number of votes?

A Yes.

Q Who received the third number of votes?

A I'm not really sure.

Q It was your testimony, I believe, that Professor Patt is not serving on this Senate Committee?

A That's correct.

Q And you testified, did you not, about discussion that you had with Dean Komar with respect to this?

A Yes.

Q At any time during the course of that discussion, Professor Behrends, did Dean Komar tell you in words or in substance that he would prefer if Dr. Patt did not serve on the Senate Committee because, in his view, meaning Dean Komar's view, Dr. Patt was an administrator?

A That may have been one of the reasons.

MR. KRAMER: I would like to have my question read back.

(The last question read by the Reporter.)

MR. KRAMER: I think that question lends itself to a yes or no.

A Yes.

Q By the way, Dr. Behrends, how many representatives does the Belfer School have on the Faculty Senate Committee at any one time?

A One official representative.

Q One, not two?

A There is an alternate.

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Q One representative?

A Right.

Q And not two?

A Right.

Q Who has replaced Dr. Patt?

A Dr. Mattis.

Q Dr. Mattis is an Officer of the Petitioner, is he not?

MR. SHECTMAN: I object.

HEARING OFFICER: What is the point?

MR. KRAMER: I withdraw the question.

The fact that Patt is an Officer of the Petitioner is already --

MR. SHECTMAN: I object and move that who is an Officer or not or who are the members of the Petititioner --

MR. KRAMER: Yes, I think Counsel would object to any query about this instead of to have this placed in an administrative ex parte proceeding.

HEARING OFFICER: The Board has decided that is the way we are going to do it.

It is not simply Counsel for the Petitioner's position.

MR. KRAMER: Mr. Hearing Officer, as we have noted we believe that violates the Constitutional rights of the client.

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is so with respect to the replacement for Professor Cooper and/or Landovitz as you just testified?

A Yes.

Q And there was no need to replace Professor Cooper until he actually left the employ of the Institution which is in February of 1975?

A Yes, we knew he was leaving.

Q Do you know an S. Goldstein?

A Yes.

Q Did the Department interview an S. Goldstein?

A Well, I don't think you would call it interview.

Q Whatever you would like to call it.

Did you meet with S. Goldstein?

A He gave a lecture, a colloquium or seminar.

Q Did you appraise his qualifications, you and the other members of the Department?

A Yes, we did.

Q Was he recommended for being employed?

A Yes.

Q In what field?

A Solid state, statistical mechanics.

Q Was an offer made to him by the University?

A Yes.

Q Was it accepted?

A As I understand, no.

Q You told us in your direct examination this last September or October there was a senior faculty meeting with President Belkin?

A Yes.

Q It was your testimony that at that meeting he agreed to allow five or six promotions at the School?

A Yes.

Q Did you attend that meeting?

A Yes.

Q Was this attended by the entire faculty?

A No.

Q Who attended that meeting?

A It was the faculty committee and certain senior faculty members.

I don't know how the decision on that was reached.

Q Those promotions had been recommended by the senior faculty of the Belfer School prior years?

A By the Department, yes.

Q Not by the Senior Faculty?

A Well, the Senior Faculty in the Department.

MR. SHECTMAN: Could we clarify something. I'm not sure whether Counsel for the University is confusing schools at this point.

There is no testimony that there is a status of senior faculty at the School.

the University itself for teaching assistantships.

There is money that people have on grants for research assistants.

What we do is, we go through the list of students and sort of rank them, the professors giving their variou opinions on whether these students should be supported or should not be and it is always taken into consideration how much money we have available in the pot to distribute amongst these students.

These students in fact come to the Physics Department and that is what we are talking about, only the Physics Department?

A Right.

Q Come to the Physics Department with a need for assistance, I assume?

A Yes.

Q And then you decide as a department how much of that need to meet if any based on the funds that you have available and the qualification of the particular student?

A That is correct.

Q Does that determination have an effect on whether those students remain at the Belfer School?

A It usually does, yes.

Q You have told us that in departmental meetings determinations are made when grades are not kept up whether

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a student should be continued; is that a fact?
A Yes.
Q And if a student is not continued I assume he goes out of the University?
A Yes.
Q Out of the School?
A Yes.
Q In most cases out of the University?
A Yes.
Q Dr. Behrends, how long have you been teaching, generally?
A At the Belfer School?
Q At the Belfer School?
A Since '61.
Q Have you taught before that?
A Yes, I taught for a year at U.C.L.A.
Q Now, based on your tenure in academic pursuits, Dr. Behrends, is it your experience that when a probationary full-time faculty member is not renewed that that probationary faculty member in fact returns the following academic year to the University that did not renew him?

MR. SHECTMAN: I object to this line of questioning.

MR. KRAMER: I don't understand why there is an objection here.

There is a point in this case having to do as you

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know --

HEARING OFFICER: The objection is overruled.

Answer the question.

A If he doesn't receive reappointment he doesn't come back.

Q That is pretty much standard practice, isn't it?

A Yes.

Q If a faculty member resigns, different than not receiving reappointment, resigns say today for next year, effective the end of this academic year, effectively for the next academic year, in your experience does this faculty member return to the University from which he resigned the following year?

A If he resigns without a leave of absence he probably wouldn't come back.

Q I'm talking about without a leave of absence.

A Then he probably will not come back.

Q That is the normal expectation, is it not?

A Yes.

Q In your experience, Dr. Behrends, you have experience in this area, when a faculty member resigns his appointment effective the end of the academic year, whether he does it in September or November or February, is it usual that that faculty member, again assuming he is not taking leave of absence or not retiring, that

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that faculty member usually has secured other appointment; that has been your experience?

A Yes.

MR. KRAMER: Off the record.

HEARING OFFICER: Off the record.

(Discussion off the record.)

HEARING OFFICER: On the record.

Q (By Mr. Kramer) Dr. Behrends, are you familiar with how authorization cards were solicited on behalf of the petitioning organization?

MR. SHECTMAN: I object.

HEARING OFFICER: Sustained for the reasons given.

MR. KRAMER: I will not ask additional questions in this line if you tell me I will be precluded but I must ask --

HEARING OFFICER: Your objection is sustained for the same reasons that I have sustained the objections earlier.

MR. KRAMER: I assume I will not be allowed to ask any questions in this line; is that correct?

HEARING OFFICER: Your assumption is correct.

MR. KRAMER: And with the same exceptions I won't comment further.

HEARING OFFICER: Just cite pages.

MR. KRAMER: We would like a two-minute break.

Q What were those other reasons?

A He said that he felt that Dr. Patt did not have sufficient research record and standing in terms of research and he felt that he would not be appropriate to represent the Belfer School.

MR. SHECTMAN: No further questions.

RECROSS-EXAMINATION

Q (By Mr. Kramer) Did Dean Komar direct you to remove Professor Patt from that Senate Committee?

A I don't see how he could direct me to remove. I had no authority to remove anybody from anything.

Q Did he issue an order removing Professor Patt from the committee?

A He simply notified Dr. Fishman that Dr. Mattis would be the representative, the ultimate representative.

MR. KRAMER: I have no further questions.

MR. SHECTMAN: No further questions.

HEARING OFFICER: Step down, please.

We will commence again on April 29th at 10:00 o'clock.

(Whereupon, the hearing was adjourned.)

Q And were each of those persons, each of those research associates, or the research assistant that -- you had, paid according to the budget line listed in each proposal?

A They didn't get the amount that was listed in the proposal in the sense that, for instance, I might have $12,000 for a research associate and decide to pay him $11,000, which is exactly what I am doing at the moment.

Q And who made that decision?

A I did.

Q Who hired each person under the grant?

A I did.

Q And who interviewed those persons?

A I did.

Q Did any other member of the university's administration or factuly interview those persons as research associates?

A No.

Q That is, under the NSF grant?

A No.

Q Did you obtain approval from anyone else at the university prior to hiring those research associates?

A No.

Q Were they uitilized specifically and exclusively for the purposes described in the grant proposals?

A Yes.

Q Did you ever have occasion to terminate a research associate?

A Yes, once.

Q Once?

A Yes.

Q When was that?

A That was in 1973.

Q And did you obtain persmission or authority from anyone at the university to terminate that person?

A No.

Q With respect to your NSF grant, has anyone else in the university taken part in the direction of the research associates and their activities under the grant?

A No.

Q Has any member of the university administration, the university's faculty, determined the methodology or execution of your research under the grant?

A No.

Q Have research associates been exclusively employed in the execution of your research under the grant?

A Repeat that question, please?

Q And have the research associates been exclusively employed --

A Yes, sir.

Q -- in the execution of your research under the grant?

A Yes.

Q Under your grant proposals and under the operation of the grant, has the university ever altered the terms and conditions of the -- of your proposals?

A No.

Q Have they ever altered any of your operative terms and conditions of research?

A No.

Could I make one point?

Q Yes, please.

A I am not allowed to work on Saturday. I guess that was it. That was a change. I used to.

Q Is the building open on Saturday?

A I building is closed on Saturday.

Q I see.

And that's the Belfer Graduate School that's closed on --

A Yes.

Q How much of your time as a faculty member, Professor, at Yeshiva University is authorized for research activities?

A 50 percent.

Q 50 percent?

A Yes.

Q And the balance of your time is spent with teaching load and --

A And with committees and what not.

Q I see.

The time you spend, Professor, in pursuant of your grant, what is it -- and I will refer specifically to your NSF grant -- what is the major bulk of your activities under that grant?

A I do experiments in the lab.

Q And under the NSF grant, approximately what percent of your time do you reasonably estimate would be involved with experimentation in the labortories?

A Well, the major part of my time is either doing experiments or working on equipment, except, of course, for reading journals and so on.

Q Could you describe your activities in the direction of your current research associate under that grant?

A Yes.

The kind of experiments we are doing are some experiments which involve both nuclear resonance techniques and low temperature techniques.

My present research associate was trained in low termperature techniques, which is his field of expertise.

Most of the technical details at the moment of the low terperature involved in this experiment are handled by him.

In fact, that's what he is doing this morning.

Q And he is doing that this morning, you say?

A Yes.

We have something broken down and he is fixing it.

And when we experiment, we both take part in this experiment.

Q Now, isolating the amount of time you spend on your NSF grant and taking into consideration the time you will spend in an academic year or in the last academic year in hiring or terminating a research associate, the research associate you had, could you give us a reasonable estimate of the time -- of the amount of time you spend -- the proportionate amount of time you spend -- the porportionate amount of time you spend under the grant in the direction of the research associate?

A I would say roughly 15 percent.

Q Of the entire time under the grant; am I correct.

A Of the entire time under the grant,yes.

Q And that does not include your teaching activities at the university; am I correct?

A It doesn't include that.

Q It doesn't include your committee activities at the university; is that correct?

A It doesn't include my committee activities, that's correct.

Q Are the grant funds authorized under the grant, uitlized exclusively for the furtherance of the grant?

A Yes.

Q Can they be utilized for any other purposes?

A No.

Q And have they in fact been uses solely for the fulfillment and furtherance of the grant?

A Yes.

Q How do you receive expenses for the grant or [illegible]?

A It depends on the type of expense. The salary of the research associate is handled [illegible] the University. I have nothing to do with [illegible]

[illegible]

[illegible]

[illegible] University?

[illegible] University.

[illegible] are issued periodically [illegible]

[illegible] connection at all [illegible]

[illegible] paid. However, the [illegible]

[illegible]

[illegible] saying that Mr. or Dr. [illegible]

[illegible]

A Yes.

Q Did you receive a check from the United States Government drawn to your order in the amount of $35,000?

A No.

Q The university did, didn't it?

HEARING OFFICER: Do you know if the university received a check?

THE WITNESS: Look, I see nothing, so how can I know?

I don't know.

MR. KRAMER: See nothing, know nothing.

THE WITNESS: I don't know whether they did or not, so how can I answer the question?

HEARING OFFICER: May I have the letter, please, Professor?

THE WITNESS: Sure.

(Handing.)

MR. KRAMER: I offer Employer's Exhibit 157 in evidence.

MR. SHECTMAN: May I see a copy of it?

MR. KRAMER: Of course.

(Handing.)

HEARING OFFICER: Any objection, counsel?

MR. SHECTMAN: No objection.

HEARING OFFICER: Received.

(Whereupon, Employer's
Exhibit 157 was received
in evidence.)

MR. SHECTMAN: Could we have the record reflect that in Employer's Exhibit 157, reference is made to the NSF grant administration manual, 73-26?

MR. KRAMER: Mr. Hearing Officer, that's totally improper. The exhibits speak for themselves.

They need not be read into the record, particularly on cross examination.

HEARING OFFICER: What was the point in making the note?

MR. SHECTMAN: Only so that the record would establish that this is the administration manual. There was some question in an off the record discussion.

MR. KRAMER: There was no question in any off the record discussion.

Counsel represented that that was the most recent one. We made no comment on way or the other.

MR. SHECTMAN: In checking with those here, it was said that it couldn't be sure.

MR. KRAMER: I am not going to clutter the record by responding to that remark.

Q (By Mr. Kramer) By the way, Professor Lipsicas, a sabbatical is a paid leave of absence, is it not?

A I was paid half by academic year's salary.

Q I can barely understand you.

HEARING OFFICER: He said he was paid half of his academic year's salary.

Q (By Mr. Kramer) By the university?

A Yes.

MR. KRAMER: I'd like to have this marked as Employer's Exhibit 158.

(Whereupon, the above described document was marked as Employer's Exhibit 158 for identification, as of this date.)

Q (By Mr. Kramer) Professor Lipsicas, I show you Employer's Exhibit 158 marked for identification. a document entitled, "NMR Measurements in Gas and Liquids, Research Proposal submitted to the National Science Foundation by Belfer Graduate School of Science."

It does say that, does it not?

A That's correct.

Q Your name is on it as principal investigator and it's approved by Dean Arthur Komar, is that correct?

A Yes.

Q And it covers the period starting April 1, 1973; correct?

A Yes.

Q And it's for the duration of one year; correct?

A Correct.

Q Is this the extension covering the April 1, 1973-April 1, 1974 academic year of the grant which we previously discussed?

A Let me have a look. Let's see.

The starting date is April -- no. This is '74. (Indicating.) This is the year before.

Q This is the year -- Employer's Exhibit 158 is for the year before.

Is that right?

A In other words, this is the proposed budget for the year preceding this proposal (indicating).

This proposal is '74 and onwards and this was '73 to '74.

Q And by, "this," you mean Employer's Exhibit 156, for '73-74; is that correct?

A Yes.

Q And 155 and 156 are for April 1, '74 to March 31, '75; is that correct?

A That's correct.

Q And was this revised -- strike that.

Was this, meaning Employer's Exhibit 158, proposal for an extension of the NSF grant, approved by the government?

A Let me see. This is '73. I would have to check my files whether this is the correct budget.

Q Professor Lipsicas, I show you Employer's Exhibit 159, which has been marked for identification.

(Whereupon the above describe
document was marked as
Employer's Exhibit 159 for
identification, as of this
date.)

A Does this correspond to this?

Q Would you look at this letter, Professor, and see if it refreshes you recollection?

(Handing.)

A Yes, okay. I understand it now. That's correct.

Q In other words, Employer's Exhibit 158, that proposal was accepted by the government, was it not?

A Yes.

Q And by the way, Professor, that is a proposal submitted by the Belfer School and so states on its cover, does it not?

A Well, I prepared the proposal of the budget.

Q No question about that. But it was submitted by the Belfer School, was it not?

A Yes.

Q And that is so, of course, with respect to Employer's Exhibits 156 and 155, as well?

A Which is these two (indicating)?

Q That's correct.

A Yes.

Q And also with respect to Petitioner's Exhibit 121 in evidence, is that correct?

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(Handing.)

A It doesn't say submitted by on this one..

Q But it has the letterhead, does it not, on the cover of this proposal?

A Yes.

Q Belfer Graduate School?

A Yes.

Q Now, I show you Employer's Exhbiit 159, which has been marked for identification, Professor, and ask you if you are familiar with the letter and the attached budget?

(Handing.)

MR. SHECTMAN: Has 159 been marked for identification?

MR. KRAMER: Yes.

A This is '72, so this is -- yes, okay.

Q I think the question is if you are familiar with this, Professor?

A It's okay. I was just looking.

Q Is that a yes?

A Yes.

Q And this is the letter from the government, the National Science Foundation, informing the university that it would receive the $26,000 request embodied in Employer's Exhibit 156; is that not correct?

A That's correct.

Q And it is addressed to the president of the university, is it not?

A Yes.

Q By the way, Professor, this letter makes no reference, does it, to any kind of an NSF grant manual, does it?

A This letter specifically?

Q Yes.

A No.

MR. KRAMER: I offer Employer's Exhibits 157, 158 and 159 in evidence, at this time, Mr. Hearing Officer.

HEARING OFFICER: Show them to counsel, please.

MR. KRAMER: Of course.

(Handing.)

HEARING OFFICER: Any objection?

MR. SHECTMAN: No objection.

HEARING OFFICER: Received.

(Whereupon, Employer's Exhibits 157,158 and 159 were received in evidence.)

MR. KRAMER: Would you please mark this as Employer's Exhibit number 160 for identification.

(Whereupon, the above described document was marked as Employer's Exhibit 160 for identification, as of this date.)

Q (By Mr. Kramer) I show you Employer's Exhibit 160, marked for identification, a letter from the National Science Foundation to Dr. Samuel Belkin, President, Yesiva University, re: Grant GP, 28355X1, which appears to be the same grant number as was on Employer's Exhibits 155, 156, 157, 158 -- correction -- 157 should be left off that.

Are you familiar with this document?

(Handing.)

A Yes.

Q Would you tell us what it is?

A Yes.

It's a letter to Dr. Belkin informing him that on this grant, which was a continuing, three year grant, $26,000 was being given for the second year of this grant, and it is their intention for the following year, which would be the third year of this grant,that they were intending to give $28,000.

Q And did they in fact give the $28,000 as we have their letter to that effect in evidence, do we not?

A That's correct.

Q And this letter was from the government to the university; correct?

A Yes.

Q And the money, the $28,000 referred to in this

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letter, like the $35,000 referred to in Employer's Fxhibit 157, was not paid to you, was it?

A It was not paid to me.

Q It was paid to the university, wasn't it?

A Yes.

Q By the way, Professor, when you travel under one of these grants and seek reimbursement, do you get a check from the university?

A Yes.

Q When you seek to purchase equipment under one of these grants and the bill comes in, is it paid by the university?

A I sign the bill. I presume --

Q Professor, I just asked you whether it is paid by the --

A I presume that it is --

MR. SCHETMAN: May the witness be allowed to answer the question?

A I presume so, sir.

I don't see the payment. All I do is sign the bill.

Q Where do you send the bill?

A I give the bill to the secretary in the Dean's office. That's all I ever see.

Q And it is paid by some angel no doubt?

MR. SHECTMAN: I ask it be stricken.

HEARING OFFICER: Strike it.

MR. KRAMER: Strike it if you will.

HEARING OFFICER: Off the record.

(Discussion off the record.)

HEARING OFFICER: Back on the record.

Mr. Kramer, please proceed.

MR. KRAMER: Would you please mark this as Employer's Exhibit 161 for identification.

(Whereupon, the above described document was marked as Employer's Exhibit 161 for identification, as of this date.)

Q (By Mr. Kramer) In or about September 1972, was a research proposal submitted to the Atomic Energy Commission by the Belfer Graduate School of Science entitled, "A Nuclear Magnetic Resonance Study of the Gas Luquid Critical Point in Hydrogen and Its Isotopic Modifications."

(Handing.)

A Did you have a question?

MR. KRAMER: Read it back, please.

(Record read.)

A Correct.

Q And were you the principal investigator on that proposal?

A I was.

Q And did you sign that proposal?

A Yes.

Q And was it also approved by Dean Komar?

A It was.

Q And it was submitted by his office, was it not?

A Yes.

Q Now, I show you the first page of Employer's Exhibit 161.

A Yes.

Q Was this the basic proposal?

A This is the basic proposal.

Q And following this proposal, Dr.Lipsicas, are the agreements between the university and the Atomic Energy Commission for the execution of this proposal, is that correct?

Let me turn them all for you while we are at it.

A There is an agreement between the university and the Atomic Energy Commission.

Q And in fact the research on this proposal was performed under your supervision pursuant to the contract between the university and the Atomic Energy Commission, is that correct?

A I performed this research with --

Q Pursuant to the agreements that we have just numbered -- thumbed our fingers through, which are embodied in Employer's Exhibit --

MR. SHECTMAN: The witness was in the middle of an answer.

MR. KRAMER: I am in the middle of a question, Mr. Shectman, which I would like to have finished.

MR. SHECTMAN: I object to counsel's interruption of the witness' answer.

MR. KRAMER: I was interrupted, and I think purposely, also.

MR. SHECTMAN: I think the record will reflect the true facts.

HEARING OFFICER: Please read back -- read the record back.

We will take it from there.

(Record read.)

HEARING OFFICER: The witness was apparently in the middle of an answer.

MR. KRAMER: I will withdraw the question.

Q (By Mr. Kramer) Did you, Dr. Lipsicas, supervise the performance of the research under this contract and indeed perform some of it yourself, the contract being a contract between the university, which we just thumbed our fingers through, and the Atomic Energy Commission?

A As I was saying, I performed this work with a post-doctoral associate.

Q And you hired this post-doctoral associate, did you not?

A Yes.

Q Did you pay him out of your personal funds?

A Out of my personal funds?

Q Yes.

A No.

Q Did you withhold income taxes for him?

A No.

Q Did you withhold social security taxes for him?

A No.

Q Did you pay workmen's compensation insurance on him?

A No.

Q Did you sign a contract with him?

A I sent him a letter of appointment.

Q You sent him a letter of appointment?

A Yes.

Q Just the way the president sent you, is that correct?

A Yes, I sent him a letter of appointment.

MR. KRAMER: I offer Employer's Exhibit 161 in evidence.

HEARING OFFICER: Any objectinn, Mr. Shectman?

MR. SHECTMAN: Will we get copies of this?

MR. KRAMER: Sure, as soon as we can make Xeroxes.

Given the short notice that we had that the witness was going to testify, we didn't have time to make copies of them.

MR. SHECTMAN: I can appreciate that.

No objection.

HEARING OFFICER: Received.

(Whereupon, Employer's Exhibit 161 was received in evidence.)

HEARING OFFICER: Off the record.

(Discussion off the record.)

HEARING OFFICER: Back on the record.

Mr. Kramer?

MR. KRAMER: Would you please mark this as Employer's Exhibit Number 162 for identification.

(Whereupon, the above described document was marked as Employer's Exhibit 162 for identification, as of this date.)

Q (By Mr. Kramer) Professor, I show you Employer's Exhibit Number 162, which has been marked for identification, a document entitled, "Research Proposal Submitted to the Atomic Energy Commission by Belfer Graduate School of Science, Yeshiva University, a Nuclear Magnetic Resonance Study of the Gas-Luquids Critical Point in Hydrogen and

Isotopic Modifications."

Was this proposal in fact submitted by the Belfer Graduate School?

(Handing.)

A Again, I wrote the proposal.

Q I didn't ask you that.

MR. KRAMER: I ask the Hearing Officer to be -- to ask the witness to be responsive to the question.

HEARING OFFICER: Just answer the question, Professor.

A Yes, it was submitted.

Q And you were the principal investigator?

A I was the principal investigator.

Q And you prepared this proposal and the attending budget, did you not?

A Yes.

Q And it was approved by Dean Komar?

A It was signed by Dean Komar.

Q And it says approved by?

A Yes.

Q You didn't object to it saying approved by, did you?

A No.

Q You didn't mark that out?

A No.

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Q You didn't write him a letter that he didn't have the right to approve, did you?

A No.

Q And it was submitted by the Dean's office?

A Yes.

Q And subsquently -- and I turn you now to the last three pages of this exhibit -- it was modified pursuant to agreement between the United States of America and Yeshiva University?

A Yes.

Q And this grant was in fact funded,was it not, Professor Lipsicas, by the Atomic Energy Commission?

A That's a contract that was funded, yes.

Q And the Atomic Energy Commission sent the money to the university, is that not correct, just as it has in every one of these situations that we discussed this morning?

A I have no direct evidence what went on between the university and the Atomic Energy Commission.

Q Did you receive the funds, Professor Lipsicas?

A No.

Q And when you travelled under this grant, to whom do you go for the money?

A I submit a voucher for Yeshiva University.

Q And Yeshiva provides you with a check or cash, as the case maybe?

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A That's correct.

Q And when bills come in for equipment purchased pursuant to this grant, that bill is forwarded to the Dean's office and you ultimately don't see it again once you have approved payment, is that correct?

A Yes, I just sign it as having been received.

Q You don't pay it yourself, do you?

A I do not pay it myself.

Q You don't write a check on your account, do you, Professor?

A No.

Q Did you withhold any taxes from anyone who worked on the grant, evidenced by Employer's Exhibit 162?

A No.

Q Any workmen's compensation insurance?

A No.

Q Any unemployment insurance taxes?

A No.

Q Any liability insurance?

A No.

MR. KRAMER: I will offer Employer's Exhibit 162 in evidence.

HEARING OFFICER: Mr. Shectman, any objection?

MR. SHECTMAN: No objection.

HEARING OFFICER: Received.

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(Whereupon, Employer's Exhibit 162 was received in evidence)

MR. KRAMER: Would you please mark this as Employer's Exhibit 163 for identification.

(Whereupon, the above descri document was marked as Employer's Exhibit 163 for identification, as of this date.)

Q (By Mr. Kramer) I show you Employer's Exhibit 163, which has been marked for identification, under the title,"Belfer Graduate School of Science," and in the center of the page,"NMR Measurement in Gases and Luquids, a Proposal for Continued Support of Scientific Research submitted to the National Science Foundation, September, 1968, principal investigator: Max Lipsicas, approved by Arthur Komar, Acting Dean."

Are you familiar with that proposal?

(Handing.)

A Yes.

Q Was it in fact submitted to the NSF?

A It was.

Q And was a revised budget on that proposal in fact submitted to the NSF?

A Just give me a minute. Yes.

Q And that revised budget, Professor, was revised effective January 24, 1969?

A Yes, in response to a telephone conversation.

Q And that conversation, of course, was with you, was it not?

A It goes directly to me.

Q The person in charge of managing this grant for the university?

A Personally wrote the proposal.

Q And you are in charge of managing the grant for the university, are you not?

A No.

MR. SHECTMAN: I object to that question. It asks for a legal conclusion.

Q (By Mr. Kramer) Professor Lipsicas, have you received --

HEARING OFFICER: Sustained.

Q -- personally received a check from the National Science Foundation or the Atomic Energy Commission funding any of the grants that we have here -- in evidence here this afternoon?

A No.

Q The checks have gone to the university, haven't they, pursuant to the cover letters that are in evidence, with which you state you are familiar, is that correct?

A All I am saying is that I have not seen any check oranything.

Q And you are in charge of managing these grants, are you not?

A No.

I made the --

Q We will let the reader of the record decide about for whom.

But you are in charge of managing the grants, are you not?

I would like an answer yes or no?

A Well, it's not clear to me what you mean by managing the grants.

I worked on this grant with either a student or a post-doctoral associate.

Q A post-doctoral research associate who is paid by the university, from the fundsprovided by the NSF and the Atomic Energy Commission; is that correct?

A I presume he is paid from those funds, yes.

Q And it's your responsitility, is it not, Professor, to see to it that he performs services pursuant to the money that's being paid him under the grant?

A Could you repeat that statement?

Q Let the Reporter repeat it.

HEARING OFFICER: Read it back, please.

(Record read.)

A Yes.

Q And you presume that money is being paid him by the university, do you not?

A I presume so.

MR. KRAMER: I offer Employer's Exhibit 163 in evidence.

HEARING OFFICER: Any objection?

MR. SHECTMAN: No objection.

HEARING OFFICER: Received.

(Whereupon, Employer's Exhibit 163 was received in evidence.)

MR. KRAMER: Would you please mark this as Employer's Exhibit Number 164 for identification.

(Whereupon, the above described document was marked as Employer's Exhibit 164 for identification, as of this date.)

MR. SHECTMAN: What is the date of 163 on the cover page?

MR. KRAMER: What's that?

MR. SHECTMAN: The date of 163 on the cover page?

MR. KRAMER: September '68 and the revised budget is January '69.

Q (By Mr. Kramer) Professor Lipsicas, I show you Employer's Exhibit 164, which has been marked for identification, a letter from the National Science Foundation, dated March 31, 1969, to Dr. Samuel Belkin, President of Yeshiva University, informing the university of a $40,900 grant in GPF 11314 involving Nuclear Magnetic Resonance Measurements in gases and liquids.

Are you familiar with this letter?

(Handing.)

A Yes.

Q This money was in fact given to the university by the National Science Foundation, was it not?

A It says here granted to Yeshiva University. Yes.

Q And this money funded, did it not, the NMR Measurements in gases and luquids study which is decribed at some length in Employer's Exhibit 163?

A I will have to check on that. Yes, that's correct.

Q By the way, Professor Lipsicas, it is a fact, is it not, that you supervised this study?

Is that correct?

A I don!t understand what you mean by "supervised."

As I have said before, I work on this -- on the subject matter of this proposal with either a student or a research associate.

Q You hire the research associate?

A I hire the research associate.

Q Do you tell the research associate what to do when it's necessary to do so?

A When it's necessary to do so. But --

Q You testified ot 15 percent of the time, as I recall it?

A Right.

Q And you have the authority to terminate him, as you told us previously, is that correct?

A That's correct.

Q Have you had technicians employed on your experimental project from time to time?

A No.

Q Now, Professor Lissicas, this project, the one described in Employer's Exhibit 163, was funded, in part, in both the first and second year, in other words with the revised budget contained in the last two pages, by the university, was it not?

A That was a cost sharing agreement, yes.

Q And that included a sharing of the costs of employee benefits?

A Yes.

Q And salaries?

A There was no salary here for the research assistant in the cost sharing.

Q I didn't ask you that.

I said of salaries?

A But it says academic year salary, cost sharing.

Q There is a cost sharing, is there not?

A Of academic year's salary.

Q Thank you, Professor

MR. KRAMER: May I have this marked as Employer's next Exhibit, if you will, please?

HEARING OFFICER: That will be Employer's Exhibit Number 165 for identification, Mr. Reporter.

(Whereupon, the above described document was marked as Employer's Exhibit 165 for identification, as of this date.)

Q (By Ma. Kramer) Now, Proessor Lipsicas, did the project -- I believe it's a NSF project -- strike that.

Did the project entitled, "A Nuclear Magnetic Resonance Study of Hydrogen Gas Luquid Critical Point," actually take place during the period May 1, 1969 through April 30, 1970?

(Handing.)

A That is the title of my contract for that period.

Q And did it take place under an Atomic Energy Commission -- contract?

A An atomic energy contract, yes.

Q And you said -- strike that.

I show you Employer's Exhibit Number 165, marked for identification, which appears to be a contract between the United States of America, represented by the United Atomic Energy Commission, and Yeshiva University, under date of May 1, 1969.

Is this the contract that you were just referring to as your contract, under "contract"?

Take a look, if you would. It's signed by the university.

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A Could you repeat the question, please?

HEARING OFFICER: Could the Reporter please read it back?

MR. KRAMER: I withdraw the question.

Q (By Mr. Kramer) Is this the contract under which that research proceeded? (Indicating).

A Well, it says here, "modification."

Q Read it now, Professor.

A It says here, "modification."

Q Read it to yourself, please.

A Okay.

Yes, that's the contract.

Q Does your signature appear anywhere on this contract, Professor?

A No.

Q In fact, Professor, we have a number of contracts in evidence here this afternoon going through all of these Employer's Exhibits -- not all, but many.

In any of these -- of those contracts, does your signature appear?

You can check if you'd like.

A On the contract, my signature does not appear.

MR. KRAMER: I offer Employer's Exhibit 165 in evidence.

HEARING OFFICER: Any objection, Mr. Shectman?

MR. SHECTMAN: No objection.

HEARING OFFICER: Received.

(Whereupon, Employer's Exhibi
165 was received in evidence.

MR. KRAMER: 166, please, Mr. Reporter, for identification.

(Whereupon, the above describ
document was marked as
Employer's Exhibit 166 for
identification, as of this
date.)

Q (By Mr. Kramer) Professor Lipsicas, did the project Nuclear Magnetic Resonance of Hydrogen Gas Luquid Critical Point take place under your supervision from May 1, 1970 through April 30, 1971?

A There was a contract for that period.

Q And, Professor, I show you Employer's Exhibit 166, marked for identification.

Is this the contract?

(Handing.)

A It appears to be.

Q And once again, that is a contract between the university and the AEC on which your name does not appear; is that correct?

A My name does not appear.

MR. KRAMER: I will offer Employer's Exhibit 166 into evidence at this time.

HEARING OFFICER: Any objection?

MR. SHECTMAN: No objection.

HEARING OFFICER: Received.

(Whereupon, Employer's Exhibit 166 was received in evidence.)

Q (By Mr. Kramer) Now, you told us that a Dr. Joel Gerber, is employed on the National Science Foundation grant during the 1974-75 school year.

Is that correct?

A That's correct.

Q At a salary of $11,000.

Is that correct?

A Yes.

Q Not paid by you.

Is that correct?

A Not paid by me, that's correct.

Q What is Dr. Gerber's background?

A He has a PhD from Tufts University. His thesis work he did at the National Laboratory in Boston.

He is an expert in low temperature techniques. That's his background.

Q Now, in addition to --

A Oh, and he has a PhD from Tufts. I think I said that.

Q And he is a chemist or physics?

A He is a physics.

Q And an expert, I think as you have told us --

A In low temperature techniques, yes.

Q Do you have a Colloquia at your school?

A We do.

Q Do you have Colloquia in chemistry?

A Actually in 1975 we haven't had any.

Q Do you have Colloquia in physics?

A Yes.

Q Do you regularly attend the Colloquia physics Colloquia?

A Not regularly.

Q You don't know whether Dr. Gerber attends because you don't regularly attend, is that correct?

A That's correct.

Q On the occasions when you were there, have you observed Dr. Gerber there?

A Once or twice.

Q How many times have you been there this academic year?

A This academic year?

Q Yes.

A As a guess, I would say six.

Q And he has been there once or two times out of those six?

A That's correct.

Q Would it be correct to state, Professor, that Professor Gerber was engaged -- Dr. Gerber. Correction.

That Dr. Gerber was engaged in scholarly work?

A Yes.

Q He is a Scholar in his own right?

A Yes.

Q And to the best of your knowledge, Professor Lipsicas, he does not possess an appointment at any other school, does he?

A That's correct.

Q Now, do you know a Dr. J. Piatt?

A Yes.

Q He -- has he worked under -- strike that.

Has he worked under the Atomic Energy Commission grant to which we have made reference during this cross examination?

A Contract.

Q Contract?

A Yes.

Q I stand corrected.

Between the university and the Atomic Energy Commission and under your supervision during the 1972-74 period?

A He worked on the project that was funded by that contract, yes.

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Q And that was for what period of time, just so that we are clear?

My notes show 1972-73 and 73-74 academic years. Would that be correct?

A No.

He worked with me from '71, October '71 to August '73.

Q Would you tell us his background, Professor?

A He has a PhD from the University of Washington in Seattle. He had worked -- his thesis work was on the low temperature study of Methane. His expertise was partly in magentic resonance and partly in low temperatures.

Q And during the time that he was at the Belfer School, he did not possess a full-time appointment anywhere else, did he?

A That's correct, he didn't have any other appointment other than in my lab, yes.

Q That was his full-time job?

A That was his full-time job.

Q And would you say he is a member of the Physics Profession?

A Yes.

Q And Dr. Gerber is a member of the physics profession, is he not?

A Yes.

Q Now, you were on sabbatical for part of the period that Dr. Piatt was there; is that correct?

A That's correct.

Q But during the time you were there, did you have opportunity to observe him at physics colloquia?

A Occasionally.

Q Now, do you know a Dr. Donald Husa?

A Yes.

Q Is he employed to perform scholarly work under the National Science Foundation grant about which we have had much testimony here today?

A Yes, he was working onthe project that was funded by the National Science Foundation.

Q And during what period of time, as best you can recall, Professor Lipsicas?

A I think it was August '73 -- no; sorry.

It was August '72 to April '73.

Q Hired by you?

A Yes.

Q Professor Gerber was hired by you, was he not?

A That's correct.

Q Professor Piatt was hired --

A I am sorry, these were all doctors, not professors.

Q I am sorry.

Being a layman, the distinction between a professor and a PhD does distinquish scholarly research slips my mind occasionally.

Was Dr. Gerber hired by you?

A Yes.

Q And Dr. Piatt hired by you?

A Yes.

Q And Dr. Husa hired by you?

A Yes.

Q Did you establish Dr. Husa's salary?

A Yes.

Q Tell him what he would get paid?

A Yes.

Q You could have paid him a little more or a little less, I take it, than the amount of money that had been given to the university under the grant?

A Yes, I can set his pay within the budget that was granted by the agency.

Q As in the case of Dr. Gerber, you set it below by a thousand dollars; is that correct?

A Well, I don't remember in the case of Dr. Husa of where I set it.

Q Would you tell us, as best you recall, what Dr. Husa's background was?

A Yes.

He had a PhD from Ohio State University. He had been a research associate at the -- a research associate at

Saclay, which is the French National Atomic Energy Laboratory.

After that time, he had been a research associate at Steven's University. Then he came to me as a research associate.

Q His speciality is physics?

A Physics and low temperature and magnetic resonance.

Q Would it be fair to assert that he is a scholar?

A Yes.

Q A member of the physics profession?

A Yes.

Q And while he was present at Belfer, he was a full-time employed person at Belfer Graduate School of Science?

A He was employed under the contract.

Q Full-time?

A Full-time.

Q He didn't work anywhere else?

A No, he didn't.

Q Do you know a Dr. J. Segal?

A M. Segal.

Q I stand corrected, a Dr. M. Segal.

A Thank you.

Q Is Dr. Segal one of your students?

A Yes.

Q Employed under the National Science Foundation grant?

A He was a research assistant as a student, paid out of our National Science Foundation grant.

Q And when did he get his doctorate?

A In 1970.

Q Now, forget about taht period he was a student, now let's talk about the period 1972-1974.

A Yes.

Q This same Dr. Segal, was he employed under your National Science Foundation grant during that period of time?

A For two months in the summer.

Q Did you hire him, did you not?

A I did.

Q To work as a research associate?

A That's correct.

Q He was no longer a student?

A He was no longer a student.

Q A PhD?

A Yes.

Q In what subject?

A In chemistry.

Q And, of course, a scholar; is that correct?

A It was a continuous -- continuation of his thesis.

Q He had his PhD, did he not, at the time he worked for you?

A That's correct.

Q So that he had his thesis published and had gotten his PhD?

A And had received his PhD.

Q So that when you hired him for two months in the summer, you were hiring him not as a student but as a research associate?

A As a research associate.

Q And he performed scholarly work during those two months?

A That's correct.

Q Did you pay him out of your own pocket?

A No.

Q The university paid him, didn't they?

A I presume so.

Q And it was full-time work, wasn't it?

A Full-time work.

Q Do you know a Dr. Tom Higgans?

A Yes.

Q Did he work as a research associated under your National Science Foundation grant?

A He did.

Q About when did that take place, Dr. Lipsicas?

A Let me see. December '73 to April, I think, the

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end of April '74.

Q Till the end of April when?

A '74.

Q And will you tell us something about Dr. Higgans' background, please?

A He had a PhD from -- what's the name of the university? -- a Catholic University in Washington. He had a post-doctoral research associate with Dr. Goldstein about a year previous to when I hired him.

Q And he worked full-time?

A With me, yes.

Q And he was a professional in his field?

A He was a professional in his field.

Q Doing scholarly work?

A Doing scholarly work.

Q Under a National Science Foundation grant of money to the university?

A Under my --

Q Correct?

A Yes.

Q To the university?

A Well, under the National Science Foundation grant.

Q You have never received a check from the goernment, have you?

A No, no.

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Q Now, you told us about Dr. Joel Gerber previously, in that he was working for you under a National Science Foundation grant continuance in 1974-75.

Did he also work for you previous to that?

A No.

Q During 1972-74?

A This is Dr. Gerber?

Q Yes.

A No.

Q You are sure about that?

A I am absolutely sure.

Q Did you know a Dr. Theodore or Ted, as he is called, Halpern?

A Yes.

Q And did he work for you under the National Science Foundation grant?

A Yes.

Q When was that, Doctor?

A In the summer of 1974, I believe.

Q Did you hire him?

A I hired him for two months. In the summer.

Q What's his background?

A He has a PhD from one of the German Universities; I don't recall. I think it was Bonn, but I don't recall exactly. He was employed as a research associate on the

Themis contract, how I got to know him, I hired him on the Themis contract.

Q And he did scholarly work for you under the Themis contract?

A That's correct.

Q And under the NSF grant that we are taling about here today?

A That's correct.

Q And you had the authority to hire him?

A I had the authority to hire him, yes.

Q And terminate him?

A Yes, and terminate him.

Q And were responsible for seeing to it that whatever work he performed was done in a scholarly and correct fashion, to the extent those terms apply?

A Again, we worked together.

I don't know how to answer that.

Q You had the authority, did you not, whether he not do the work properly, or not to show up, or to come in drunk, or whatever, to reprimand him and to direct him to do the work properly?

A I think that's correct.

Q That wasn't necessary, but you had the authority, did you not?

A I think that's correct.

Q That is so with respect to all of the people we have been talking about here -- Dr. Gerber, Dr. Husa, Dr. Segal, Dr. Higgans, Dr. Piatt?

A I presume so, yes.

Q All people on the university payroll?

A I --

Q Correct?

A Well, all people paid out of the grants, or contracts.

Q Not paid by you?

A Not paid by me.

Q Paid by the university?

A Yes.

Q Operating under grants given to the university by the government?

A Well, this seems to be a mutual point.

All I know about these grants is --

Q Is what you read in the papers, yes.

MR. SHECTMAN: I am going to object now.

MR. KRAMER: I am going to withdraw the question.

Q (By Mr. Kramer) Do you know a Dr. Tom -- I withdraw the question.

You have referred to a Dr. Higgans here previously?

A Yes.

Q As having worked under the National Science Foundation grant that you manage.

Did he also work under the Atomic Energy Commission grant that you manage?

A Well, that is possible.

I'd have to look at my records.

Q You don't recall one way or the other; is that correct?

A Yes.

Is it possible to explain?

Q No. If you don't recall, you don't recall.

A I don't recall.

Q I am not asking you to recall things you don't recall.

A Then I don't recall.

Q Did Dr. Piatt engage in research under the Atomic Energy Commission grant?

A I would have to check my records as to which he was paid for.

Q And you are not sure now?

A I couldn't swear to it.

Q As to which grant --

A I can swear to Dr. Gerber only -- because I only have one grant.

Q How long has Dr. Piatt worked under grants that you have managed, be they Atomic Energy or National Science Foundation?

A He worked two years, from October -- well, I gave you the answer before -- October '71 to August '73.

Q Did Dr. Ginsberg work under your Atomic Energy grant in 1971-72?

A No.

This was a student, Neil Ginsberg.

Q Did he have a doctorate degree?

A No.

He was a undergraduate school.

Q You recall no Dr. Ginsberg with a --

A Neil Ginsberg was under -- was a undergraduate student.

Q Do -- you recall no Dr. Ginsberg, a research associate, is that correct?

A No.

There was a Neil Ginsberg who was a undergraduate student.

Q Be that as it may, you recall no Dr. Ginsberg --

A No, Dr. Ginsberg.

Q -- a research associate, is that correct?

A That's correct.

Q Now, Dr. Halpern worked under your supervision, did he not?

A As I explained to you, he worked with me.

Q It's a fact, is it not, that Dr. Halpern has taught a course in the Physics Department?

A Not while he was working with me.

Q Tell me when he did teach the course, Professor Lipsicas, approximately?

I just want your memory on the subject, Professor?

A Let me see. He was teaching a course in the Physics Department sometime previously to when he worked during the summer with me.

Q And there is nothing to prevent any of these research associates from being asked to and in fact teaching a course at the Belfer School, is there?

A To prevent --

MR.SHECTMAN: Could I hear the question back?

HEARING OFFICER: Read the question, please, Mr. Reporter.

(Record read.)

MR. SHECTMAN: What is the basis for that question?

MR. KRAMER: He just told us that Professor Halpern -- correction --

THE WITNESS: Dr. Halpern.

MR. KRAMER: -- though now I really wonder about the distinction -- taught a course prior to working the summer for him on the research -- you know, under his supervision on the research grant question.

MR. SHECTMAN: But he said he did not teach a course while he was working with Professor Halpern.

MR. KRAMER: Fine.

I understand that.

But he has been at the school since 1966.

THE WITNESS: That's not true.

Q (By Mr. Kramer) Since, when?

A He has been at the school since the Themis contract.

Q No, you have been at the school Professor, since I believe 1966.

A Oh, I am sorry.

Q And, therefore, I think you are in a position to answer that question.

HEARING OFFICER: If you know the answer to the question, please answer it.

THE WITNESS: Well, could you repeat the question again, please?

HEARING OFFICER: Read the question back one more time, please, Mr. Reporter.

(Record read.)

MR. SHECTMAN: Mr. Hearing Officer, if I understand this question, in light of your prior ruling this morning, counsel for the university is asking in actual practice at the university now, is he not?

MR. KRAMER: I am asking him from his experience, is there anything to prevent him from doing it.

MR. SHECTMAN: Well, if there is anything to prevent him, it would be in some kind of guide lines.

MR. KRAMER: Not necessarily.

A Well, it doesn't come under my competence whether a man is eligible for teaching or not.

Q In other words, there is nothing to prevent these people from teaching, is there?

A I don't know. It's not my competence to decide whether they can or can't teach.

Q Do you know Dr. Trenzi?

A Yes.

Q I believe you referred to him on direct examination.

A Yes, That's correct.

Q What is his background?

A He was a member of the faculty at the University of Sardinia. He came to this country on a Fulbright-Hayes travel award.

He worked as a research associate on my NSF frant in 1970-71.

Q You hired him, did you not?

A I hired him.

Q What is his field of competence?

A Magnetic resonance.

Q And he did scholarly work?

A Yes.

Q At Belfer School?

A Yes.

Q Under your grant?

A Yes.

Q And you supervised him?

A He worked with me.

Q Do you know a Dr. Merry?

A Yes.

Q What is Dr. Merry's field of competence?

A He is an expert in Antiofero Magnetic Resonance.

Q And was he employed to do research pursuant to the NSF grant?

A It was either NSF or the AEC.

Q And you hired him, did you not?

A I did.

Q And what kind of research did he do?

A He did magnetic resonance research work.

Q Do you consider him a professional in his field?

A Yes.

Q And a scholar?

A Yes.

Q And that would also be with respect to Dr. Trenzi, would it not?

A Yes.

Q Now, you know a Dr. Howard Fine?

A Correct.

Q Professor, did Dr. Fine perform research at the

Belfer School pursuant to your AEC grant?

A He was my student.

Q Did he perform research as a doctoral?

A And after he got his PhD, he was a research associate.

Q I am not interested in prior to his obtaining his degree.

A Okay.

Q When did he work, to the best of your recollection, as a research associate?

A As a research associate, it must have been '69 to '70.

Q And what was his field of endeavor?

A Magnetic resonance.

Q And is Dr. Fine a scholar?

A Well, he is a school teacher nowadays.

Q He -- is he a scholar, Professor?

A Yes.

Q And a professional in the field of physics?

A Well, as I say, he is working as a school teacher.

Q And I think we find that school teachers are considered professionals, as well, do we not?

A If so, then he is a professional.

Q Professor Lipsicas, you hried Dr. Fine to do s to do scholarly research, did you not?

A That's correct.

Q And you were the one who hired, him, were you not?

A That's correct.

Q And did he perform scholarly research under you?

A Yes.

Q Did you terminate Dr. Fine?

A Yes.

Q Do you know an electrical engineer named Brandwin L.Brandwin?

A Yes.

Q Did you hire L.Brandwin to perform certain work pursuant to your AEC grant?

A Not that I know of.

Q Think back to 1968-1969.

Did you have an AEC grant at that time?

A Idid, I had an AEC contract.

Q An AEC contract?

A That's correct.

Q Pertaining to a gas chromograph?

A No.

Q Do you know --

A Wait a minute now.

Q Think back now.

Did you employ or have employed a L. Brandwin.

A This could be in my role as acting chairman,

chairman, not in my role as principal investigator.

Q Tell us about that, Professor?

A Well, when I was acting chairman, the department applied for a departmental grant.

Q Go ahead.

A And my name -- I was the proposer of the grant. It was a proposal for a grant to buy two pieces of equipment. The proposal -- I wrote the proposal.

Q And?

A And we got the two pieces of equipment, which was a matching grant between the university and the NSF.

Q And L. Brandwin was the electrical engineer used to put that equipment in place or see that it was installed properly, to the best of your recollection?

A I am sure he played some role in that.

Q And you played a role in his selection, did you not?

A No, I did not select the machine, this was a departmental --

Q I didn't ask you about the machine, I asked you about L. Brandwin.

A Selecting L. Brandwin?

Q Yes.

A Well, it's normal with equipment that we have at the Belfer School, for Mr. Brandwin to help in maintaing the equipment.

MR. SHECTMAN: Will you tell us if Mr. Brandwin holds a position in the university?

Q (By Mr. Kramer) Mr. Brandwin is an eletrical engineer, is he not, employed by the university?

A He has a position as the university.

Q And the equipment that was being purchased, was being purchased for the university, was it not?

A It was purchased presumably for the Chemistry Department of the Belfer Graduate School of Scinece.

Q Of Yeshiva University?

A Of Yeshiva University.

Q And the university owns the equipment to this day, does it not?

A The university owns the equipment, yes.

Q So the equipment was purchased for the university?

A Yes.

Q And installed under the aegis o fthe university's engineer, L. Brandwin; is that correct?

A I think this is correct.

Q And under your supervision as acting departmental chairman?

That's a fair conclusion, is it not, Professor?

A Well, I am not clear exactly what "supervision" in this case means. I don't supervise Mr. Brandwin.

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Q Did you make sure that the equipment was installed properly?

A No.

Q What did you do with respect to the equipment?

You proposed that --

A I proposed the equipment.

The equipment was purchased.

I am not a user of this equipment, the organic chemists use the equipment.

Once I put the proposal up, I had nothing further to do with the equipment.

Q And the organic chemists, who are the users of this equipment, then see to it that it's installed properly, do they not?

A To tell you the truth, that equipment is hardly being used.

Q I see.

Ihope you told us the truth throughout this testimony, Professor.

A Well, check it.

MR. KRAMER: I would like a ten-minute break, if I may.

HEARING OFFICER: We will take a ten-minute break at this time.

(Recess taken at 3:35 P.M.)

(Resumed at 4:10 P.M.)

HEARING OFFICER: The hearing will be in order.

Professor Lipsicas, please resume the witness stand.

Q (By Mr. Kramer) --

MR. KRAMER: Would you please mark this as Employer's Exhibit Number 167 for identification.

(Whereupon, the above described document was marked as Employer's Exhibit 167 for identification, as of this date.)

Q (By Mr. Kramer) Professor Lispicas, I show you Employer's Exhibit 167, a letter from the Natinnal Science Foundattion, Washington, D.C., to Dr. Samuel Belkin, re: grant 10386 involving purchase of a preparative gas chromograph and a curve resolver.

Is this the grant which you were just referring --

A Yes.

Q -- on cross examination?

A Yes, that's correct.

Q This letter was received, was it not, by the university and this grant was in fact made?

A This grant was made.

Q And the project was under the direction of Max Lipsicas, Department of Chemistry, Belfer Graduate School of Science?

A That's correct.

Q As is stated in the letter?

A That's correct.

MR. KRAMER: I offer Employer's Exhibit 167 into evidence at this time.

HEARING OFFICER: Any objection?

MR. SHECTMAN: No objection.

HEARING OFFICER: Received.

(Whereupon, Employers Exhibit 167 was received in evidence.)

Q (By Mr. Kramer) And the university did in fact acknowledge receipt of this grant, did it not?

A I have no direct knowledge of that. I presume so.

MR. KRAMER: Would you please mark this as Employer's Exhibit 168 for identification.

(Whereupon, the above describe document was marked as Employer's Exhibit 168 for identification, as of this date.)

Q (By Mr. Kramer) I show you Employer's Exhibit 168, marked for identification, a letter from Dr. Louis Levin, Executive Associate Director of the National Science Foundation from President Samuel Belkin.

You received a copy of this letter, did you not? (Handing.)

A I don't recall reeeving a copy of the letter.

Q Have you any reason to doubt that this letter was

was sent?

A No.

Q Allright.

MR. KRAMER: I offer Employer's Exhibit 168 in evidence.

HEARING OFFICER: Any objection, Mr. Shectman?

MR. SHECTMAN: I would object to this because no foundation has been laid for the receipt of this into evidence.

The witness has no knowledge of this letter. It's not addressed to the witness; it's not signed by the witness.

I object to its introduction into evidence at this time.

HEARING OFFICER: The objection is sustained.

MR. KRAMER: I ask that the letter be placed in the reject exhibit file.

HEARING OFFICER: Okay.

(Whereupon, Employer's Exhibit 168 was marked as Rejected Exhibit.)

Q (By Mr. Kramer) Professor Lipsicas, Employer's Exhibit marked for identification, 168, refers to a A. MacDonald.

A Yes.

Q Is that the same MacDonald to whom you referred in your direct examination?

A I presume so.

Q And what was his title?

A Assistant to the Dean.

Q And his function as--is now fulfilled by Dr. Patt who is assistant Dean?

A That, I couldn't answer.

Q But to the best of your knowledge?

A I couldn't answer that question.

Q You couldn't answer it?

A No, sir.

Q Do you have dealings with Professor Patt?

MR. SHECTMAN: I object to badering the witness on this point.

MR. KRAMER: I am not badgering the witness.

MR. SHECTMAN: There is no foundation laid as to his having any knowledge as to what the particulars of Dr. Patt's duties are now.

HEARING OFFICER: That's what he is getting into now.

MR. KRAMER: Mr. Hearing Officer, I am not going to inquire any further.

We are very happy to rely on the uncontroverted testimony of Dean Komar in that regard.

Q (By Mr. Kramer) When did you stop being acting department chairman?

A   Approximately May 1970.

Q   That means you haven't been acting chairman or chairman of the Chemistry Department for almost five years; is that right?

A   That's correct.

Q   Is it a fact, Professor Lipsicas, that you have -- strike that.

Professor Lipsicas, we have a number of grant proposals and grant letters in evidence as Employer's Exhibits. We put them in on cross examination this afternoon.

You have made reference during the == your direct testimony to a Themis Project, or grant.

Do any of the letter that we have put in on your cross examination here this afternoon, bear on that Themis Project?

A   No.

Q   That is something separate and apart --

A   That's correct.

Q   -- from the National Science Foundation and Atomic Energy grants that we have discussed here this afternoon?

A   Yes.

Q   And that is the project or grant upon which there were co-principal investigators, the Themis grant?

A   That's correct, yes. I think it was a Themis contract, not a Themis grant.

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Q A contract between the university and a governmental granting agency?

A I presume so.

Q You weren't party to that contract any more than you were a signed party to the contracts that were put in evidence here this afternoon?

A I would have to look at the papers to see exactly what the relationship was.

Q You have no recollection?

A I have no recollection.

Q You were asked on direct examination how much of your time as a faculty member at Yeshiva University is alloted to research activities.

I think that's very close to a verbatim quote?

A Yes.

Q And your answer was 50 percent?

A That's correct.

Q What do you mean by that?

A Well, normally we consider ourselves as spending half our time in teaching activities and half our time in research activities.

Q Now, that is the question of research being the equivalent of certain contact hours, is it not?

A I presume so. I mean, I am not certain in how this is arrived at.

Q Focusing on your actual time as opposed to equivalent time, that is, actual time spent at the university --

A Right.

Q -- what percent of your actual time spent at the university is spent in research?

A Well, this varies enormously. I have had weeks when I have worked 100 hours, 120 hours, and I have had weeks where I worked 30 hours.

I don't think I could really give you --

MR. KRAMER: I would just like to have my question read back because I don't think it --

Q (By Mr. Kramer) We appreciate the difficulty of these estimates, Professor, but I don't think your answer was responsive.

MR. KRAMER: Would you please have the question read back.

HEARING OFFICER: Please read it back, Mr. Reporter.

(Record read.)

MR. SHECTMAN: Could we fix a period of time?

Mr. K ramer, are you referring to an academic year, a semester?

MR. KRAMER: We will take this academic year as a starter.

A Well, -- we will take it as a yearly basis?

Q I am taking this academic year.

A You want what fraction of the academic year?

Q The beginning until now?

A What fraction I have spent in research and what fraction in teaching?

Q I actual time. I am not talking now about equivalent time.

MR. SHECTMAN: Are you referring to teaching in the related duties of committee work, preparation and so forth?

MR. KRAMER: I think the witness can explain the answer to us without being coached.

A Well, I really find it very hard to answer that questio I prepare my lecture notes, for instance, at the weekend.

The lecture notes are teaching. Do I take it into account or don't I take it into account?

Last Saturday I spent eight hours writing lecture notes.

Q Professor, looking at the academic year from the beginning until now --you know what research is, don't you?

A Yes.

Q And you know what teaching this?

A Yes.

Q Teaching would include, would it not, lecturing, preparing the notes for lecturing?

A Right.

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Q Just as research would include doing the research and preparing the outlines for it?

A Yes.

Q Assuming that that were done.

A Yes.

Q Now, what percentage of your time was spent in research, obviously committee meetings are not research, and what percentage is spent in teaching and related duties?

A Well, I would stick to the figure of 50 percent. It might be a few more percentage more than 50 percent in research.

But I think overall if I made a honest assessment, including what I do at home at night and what I do at weekends and so on, I would say it's not very far from 50 percent.

Q You don't keep records with respect to this, do you, Professor?

A I think at one time we did, if I remember right. We were asked by the government to make out records.

Q I am not asking you what you did at one time.

I am asking you about this year?

A At the moment, no.

Q Do you have any records that you can produce for us, at this hearing, showing the break down of the amount of time spent in research and the amount of time spent in teaching?

A No, I don't.

Q So that at one time you has such records and you don't have them any more?

A No.

At one time the university asked us to keep records for some government reason.

Q But it's not customary to keep these kinds of records, is it?

A At the moment, it's certainly not customary.

Q And it hasn't been customary over the last 10 years, has it?

A It has.

Q What does customary mean, Professor?

A There was a certain period where it was customary.

Q And how long was that period of time?

A I don't recall exactly. We had -- we'd have to look at the files, but I distinctly remember having to fill out some forms at the request of the Dean.

Q Which year, Professor?

A If my memory serves me right, there is -- was before I went on sabbatical, so it would be somethere between '69 and '72.

Q And for what lenght of time, Professor?

A It probably would only be operating during one

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academic year.

Q So that it would be correct then to state that only during one academic year and then at the request of the government to the university, records were kept about how your time was spent, otherwise they were not kept?

A That's true.

Q So, it is, therefore, not customary, is it, to keep such records?

A If that's how one distinguishes customary, yes, not customary.

Q Do you have a PhD, Professor?

A Yes.

Q You do not have records for the 1974-85 academic year, do you, Professor?

A No.

Q And your estimate is in excess of 50 percent, is that correct?

A The research or the teaching?

Q The research.

A I would say it's between 50 and 50 plus, but I would say it's between 50 and 60 percent to make it more precise.

Q Now, Professor, of the 60 percent, or somewhat less that you just estimated --

A Yes.

Q -- what percentage of that time is spent in directing, managing, supervising or otherwise controlling, in one way or another, the activities of research associates under your grant?

MR. SHECTMAN: Are you referring to the last academic year?

MR. KRAMER: Yes, and we are going to go back through every one of them.

A Between 50 and 60 percent.

Q Yes.

A During the last academic year, if I take the total hours I work, which is what I am basing myself on, I would say it's certainly no more than ten percent.

MR. SHECTMAN: And does that -- let the witness clarify now when he said total hours, whether now the witness is including teaching or just the research activities?

MR. KRAMER: You know, this is a non adversary proceeding, so I won't object.

But I would ask the Hearing Officer to direct counsel not to interrupt the examination in the future.

A Well, what I am saying, of the total hours that I work a week, including what I work at home, I would say no more than ten percent of my time is spent on supervising.

Q That's of your total time?

A Of my total time.

Q Teaching and non-teaching?

A Of everything I do, yes. Don't forget, after all, I call up my post-doctoral associate at night and talk to him about the experiment at night.

I do that quite regularly.

Q I am not quarreling with you.

A He is going to call me and say that it's fixed, we are ready to run tomorrow.

Q Ten percent of your total working week is your answer?

a Yes.

Q And you have told us somewhere between 50 and 60 percen of your total time is research and the rest is teaching and/or related activities?

A I would say yes to that.

Q And you are not counting all of the -- of your time, as I have asked you to do?

A Yes.

Q And that was in 1974-1975?

A That is as it is at the moment.

Q Putting aside your sabbatical year, Professor, because I think that would be a typical --

A Oh, it's typical. I was working at Grenoble until ten o'clock at night.

Q PUtting aside for whatever reason your sabbatical year, Professor, would the answers be essentially the same for years prior to your sabbatical year as they were for 1974-75?

A It does not vary because it varies according to the stage at which work is going on. It depends also -- I mean, the work load varies.

Q Would there have been years in which the research was in excess of 60 percent?

MR. SHECTMAN: This is during the academic year, Mr. Kramer?

MR. KRAMER: Yes, during the academic year.

A I would say that during the period when I had the Themis as a co-investigator, that means that I had 3 -- the NSP, the AEC and Themis. And then it was probably 60 percent.

Q And you have told us that about ten percent of your overall time is involved in direction, control, supervision, managing or whatever --

A Yes.

Q -- under the research projects?

A Yes.

Q Would there have been times in prior years when that ten percent would have been larger, just as you told us the research would have been larger?

A In which the ten percent -- could you repeat what you referred to as the ten percent?

Q I think it was pretty clear in the record what you answered to.

Would that ten percent figure be larger than -- in other years, or were there other years in which it was larger?

A Well, I would like to know what the ten percent exactly refers to?

HEARING OFFICER: The ten percent --

THE WITNESS: I want to answer it accurately.

HEARING OFFICER: The ten percent had to do with the time you spent supervising, managing, or directing.

THE WITNESS: Supervising?

HEARING OFFICER: Yes.

A It would not have changed, much. I make a point of minimizing the amount of that kind of ---

Q So that you make a particular point of minimizing that amount of time?

A Yes, because I work in the lab with my hands.

Q I didn't ask you why, I asked you whether you made a point of minimizing it?

A Yes.

Q You do, do you not?

A Yes.

Q By the way, Professor, you have no records you can give us to back up any of this testimony, do you?

A No.

MR. KRAMER: I will state for the record that --

A Yes, I could give you records.

If you look at the entry book of the Belfer School, you will find that in seven years my name is regularly there, every Sunday I am in. So that's more than the 5-day week.

You will also find that I sign at all time of the day and night. I have been in the Belfer School at two o'clock in the morning, three o'clock in the morning.

Q And all this time, of course, is included in the total of the basis for the 60 percent and the ten percent figures you have given us, is that correct?

A Yes, tht's why I say 60 percent.

HEARING OFFICER: Would these records show how much of that time was spent in supervising your associates?

THE WITNESS: Records?

HEARING OFFICER: The sign-in records that you mentioned?

THE WITNESS: No.

They just note when I am in at the weekends and what hours I was in and out.

HEARING OFFICER: Okay.

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Q (By Mr. Kramer) There is no way from records that you know of, Professor, of determining just precisely how many hours you spend directing, managing, supervising or controlling research associates on your research grants?

A I said before I work with my research associates.

MR. KRAMER: We have, I think, exhausted this subject, Mr. Hearing Officer.

I think the record speaks for itself.

Q (By Mr. Kramer) Now, Professor Lipsicas, how long did it take you to hire Joel Gerber?

A Could you distinguish that question more precisely?

Q How many hours did you spend in hiring -- in the hiring process in hiring Joel Gerber?

A I --

Q Did it take you a day, a week, a month?

A He arrived at 11 o'clock in the morning. We were finished at four o'clock in the afternoon.

Q How long did it take you to hire Donald Husa?

A About the same.

Q Dr. M. Segal?

A By letter.

Q It didn't take very long, did it, a few minutes; right?

A That was just a letter.

Q Dr. Thom Higgans?

A That was probably about the same, 11 to 4, something like that.

Q Dr. Ted Halpern?

A Dr. Ted Halpern -- is this relative to Themis or relative to the NSF?

Q Relative to the NSF?

A That was quite quick.

Q Relative to Themis?

A Relative to Themis, it was something like 11 to 4, because he came donw on a interview.

Q It doesn't take very long to hire somebody, does it?

A Well, it is more to it than that, of course. You have to find the person. It means you have to call up. You have to talk to people.

You have to write a few letters.

Q It requires the use of independent judgment, Professor?

It's not a routine kind of thing, is it?

A No.

Q How long did it take you to hire Dr. Trenzi?

A That was maindly done in a long-distance telephone call from Sardinia.

Q And Dr. Merry?

A That was done -- well, that was actually in response to a few letters I wrote out and a recommendation from his institution.

Q It didn't take very long, either, did it?

A It involved a few hours, yes.

Q But the way, you don't keep any records of how long you spend in the hiring process, do you?

A No.

Q How about Dr. Piatt?

Did you hire Dr. Piatt?

A Yes.

Q How long did it take you to hire him?

A That was done long distance by correspondence and by recommendations from people we knew.

Q How about Dr. Fine?

A Well, as I say, he was a student of mine, so there was no need -- there was an arrangement we came to.

Q He worked under you as a research associate, as well, did he not?

A Yes.

But when he finished as a student, he then went straight on to being a research associate.

Q Now, in addition to these people that youhave told us about -- Dr. Gerber, Dr. Husa, Dr. Segal, Dr. Higgans, Dr. Halpern, Dr. Trenzi, Dr. Merry, Dr. Piatt and Dr. Fine --

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A Yes.

Q -- Dr. Lipsicas, did you also interview other personnel that you did not hire, other faculty applicants or faculty associates, or research associates as we are calling them here?

A I have had interviews with possible research associates, for instance, a student who is about to finish his thesis and is looking for a job.

But on the whole --

Q You have also interviewed, have you not --

MR. SHECTMAN: No.

Counsel is interrupting the witness again.

MR. KRAMER: I did.

Q (By Mr. Kramer) Please continue.

A On the whole, this has only happened maybe I can only recall three instances in which this has happened.

Q You have also interviewed, have you not, Professor, personnel who were not students and who have doctoral degrees?

A The only people I have ever interviewed, other than Dr. Husa, were people who were going from the stage of getting their PhD; in other words, submitting their thesis.

The next thing they did was work with me as a post-doctoral.

Q And that would be after they have had their PhD's?

A Yes.

Dr. Husa is the only case of someone who has had prior experience after his --

Q And Dr. Trenzi you handled on a long distance phone?

A I am talking about interviews.

Q Dr. Merry you handled by virtue of correspondence, as I recall, is that correct?

A Yes.

Q And so on.

Could you tell us, overall, how many hours you spend each year in the interviewing process or in the hiring process?

Well, let me make it the hiring process so that we have it clear for the record.

A Hiring generally?

Q Yes.

A Again, this depends on how many grants and contracts I have.

It, also depends on whether I have a position available.

MR. SHECTMAN: I will object to the question now.

Rather than have the witness speculate in light of the very certain and ascertainable variables, this question could be coached in terms of a specific year --last year, the current year, or whatever.

MR. KRAMER: The witness was having no trouble answering the question until he was interrupted by the objection. I would like to have the answer read back to the witness and allow him to continue.

HEARING OFFICER: The objection is overruled.

MR. KRAMER: We contend, as you know. Mr. Hearing Officer, we don't think the 50 percent rule applies here.

We contend that it's an arbitrary and capricious rule and that it is not arbitrableand admissible.

These people are not within the 50 percent rule. This testimony clearly demonstrates exactly what we are talking about from a witness that we did not call.

That's why it iwas interrupted.

MR. SHECTMAN: I believe, Mr. Hearing Officer, will demonstrate exactly what the Board finds it does.

MR. KRAMER: May I have the testimony read back ot the witness as far as we -- as he went?

HEARING OFFICER: Mr. Reporter.

(Record read.)

HEARING OFFICER: Continue from there, Professor.

THE WITNESS: Could you remind me what the exact question was, please.

HEARING OFFICER: Read it back, please, Mr. Reporter.

(Record read.)

A (Continuing) I should explain that the hiring process also proceeds over a match of time in the sense that if I know I am going to have a post-doctoral position in six months period of time, I will begin talking to people at meetings and so on, you know, six months in advance.

So this is really dragged out.

Q Approximately how many hours in a typical year?

A In a typical year, and if I have, let's say, one position, it would be a matter of maybe of, I would say the equivalent of two or at most three day's work.

Q But you have no records to support that, do you?

A I don't have any exact records for noting how much time I spend each day.

MR. KRAMER: I will state that we, the university, can produce no such records, either.

Q (By Mr. Kramer) And it does vary, does it not, as you have told us, from year to year depending on what your needs or -- are or not?

A That's correct.

Q Is it correct to state that the faculty at the Belfer School are a community of scholars?

Would that be a correct statement, Professor?

A Yes.

Q Would it also be fair to state that the research associates who are in residence at that college while they are at residence in that college, are part of that community of scholars?

A Well, as in all communities, they are part of the community but not necessarily an equal part of the community.

Q They are a part, are they not?

A They are a part.

Q Now, you have told us about travelling pursuant to the objectives of your various grants.

A Yes.

Q Have you also travelled on non-grant matters?

A What kind of matters are you referring to?

Q Have you travelled, Professor, at unverisity expense, on matters not involving your grants?

A I have never travelled at university expense, it's always been paid out of the -- of a grant.

Q By the university?

A By the university except for --

Q Now we will get back to my question, if you don't mind.

A -- except for one case in 19 -- relative to the grant that you produced on the equipment -- I am sorry. Strike that out, please.

One case on a grant similar to the equipment, I did go to Bell Labs. That was reimbursed by the university, not out of my grant.

Q That was paid for by the university?

A Yes.

Q How did you go about getting paid for that -- reimbursed for that trip?

A This is the famous case with Dean Gelbart of $8.30, which I think has already been referred to in the testimony.

MR. SHECTMAN: May the witness be directed to answer the question.

HEARING OFFICER: Would you tell us the story, please?

THE WITNESS: Oh.

(Laughter.)

THE WITNESS: Well, this is the days when we had a lot of difficulty with Dean Gelbart.

He chose to take this as a issue that I had gone with Professor Untch, who had left the university, in 1968, to Bell Labs. We were about to put a proposal in, a equipment proposal, to the National Science Foundation.

I put forward the view that it might be more

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efficient to buy a small computer for this application since the users were organic chemists and knew nothing about computers, I took them to see someone who was using this kind of equipment at Bell Labs.

Then I applied for the refund of the travel to Bell Labs, which amounted to eight dollars and something, and this was refused by Dean Gelbart because I had not received prior permission to go to Bell Labs.

Q (By Mr. Kramer) What happened there, Profssor?

A Well, eventually I did get repaid, but this was part of the issue that was raised when Dean Gelbart was removed from office.

Q In other words, Dean Gelbart refused to approve your expenditure?

A Yes.

Q And was removed ultimately from office with this being one of the causes, is that correct?

A Well, I don't know whether I would call it this was one of the causes, but this was one of the factors that sme into the discussion, which eventually he was removed.

Q Was there a faculty search committee for his successor?

A Yes.

Q And as a result of the delegations of that search committee, Dean Komar became the next Dean after Daan

Gelbart, first acting Dean and then the next Dean?

A No.

As I recall, there was a faculty search committee. We were unable to come up with a -- the faculty search committee was unsuccessful in finding an outside Dean.

As I recall, President Belkin then appointed Dr. Komar as Dean.

Q Did he serve first as acting Dean?

A This is my recollection.

Q Did he serve as acting Dean?

A Yes.

Q And did -- did the faculty vote its oppositon to that appointment?

A The faculty, as I recall, did not take a vote. This was an appointment from Dr. Belkin. I do not recall having voted.

Q Isn't it a fact, Professor Lipsicas, that one of the reasons it was so difficulty to obtain a dean for the Belfer School, as you have just told us, is that the faculty have such a strong and meaningful voice in the running of the school?

MR. SHECTMAN: I object to counsel's asking for a conclusion from this witness.

MR. KRAMER: Well, I think the witness has volunteered a great deal of information here today and displayed a great deal of sophistication in answering the questions.

He can answer this one, as well.

MR. SHECTMAN: I object to the question.

HEARING OFFICER: The question does call for an opinion.

MR. KRAMER: He has been there for ten years almost He has a PhD.

HEARING OFFICER: I think we would need more of a basis for allowing that type of question.

MR. KRAMER: Excuse me?

HEARING OFFICER: I think we would need more of a basis for allowing the opinion.

MR. KRAMER: If you are sustaining the objection, we will just certainly take an exception to it. I note the objection which maybe more meaningful to than an answer.

MR. SHECTMAN: I move now that the remarks of counsel be stricken.

HEARING OFFICER: Granted.

MR. KRAMER: We have no further questions of this witness.

HEARING OFFICER: Your witness, Mr. Shectman.

REDIRECT EXAMINATION

Q (By Mr. Shectman) Professor Lipsicas, counsel for the university has introduced copies of certain grant proposals as well as the copy of grant proposal which we submitted under direct examination, all of which indicated in a line to the right of that for the principal investigator for signature in each case.

I will show you, for example, Employer's Exhibit 155, where the principal investigator name is typed on the left side, with your -- where your name is under the line for signature, and to the right the line of approved by and with Arthur Komar, Dean, under that line.

Can you tell us whether such an approval has ever been denied to a grant by Dean Komar?

MR. KRAMER: I must object that he has shown no foundation for this. Our questions were all in terms of his own grants.

MR. SHECTMAN: I am talking solely with reference to his grants.

A With respect to my grants, the signature has never been refused.

Q And has Dean Komar ever discussed the grants with you?

A Not that I can recall.

Q Has he ever made any amendments to your grant proposal?

A No.

Q Has he ever recommended the subject matter of your grant proposal?

A No.

Q Has he ever recommened it -- the budget of your grant proposal? Dean Komar now.

A I don't recollect such an occasion.

Q So it is then your testimony of all the grants or grant proposals which you submitted, approval has been automatically given by --

MR. KRAMER: I must object to the automatically.

MR. SHECTMAN: Question withdrawn.

MR. KRAMER: What was in the mind of the Dean can hardly be stated by this witness.

MR. SHECTMAN: Question withdrawn.

Q (By Mr. Shectman) Is it now your testimony that with respect to each and every grant proposal that you have submitted that the approval of Dean Komar has followed?

MR. KRAMER: I am going to object because this question has been asked and answered three times.

I asked it on cross and he asked it before on direct.

HEARING OFFICER: Repeat the question, please.

(Record read.)

HEARING OFFICER: Answer the question yes or no, please, Professor.

A Yes.

HEAARING OFFICER: Thank you.

MR. SHECTMAN: I offer to be marked for identification, as Petitioner's Exhibit --

HEARING OFFICER: 123.

MR. SHECTMAN: -- 123, a letter from the National Science Foundation to Dr. Max Lipsicas, dated March 31, 1969.

(Whereupon, the above described document was marked as Petitioner's Exhibit 123 for identification, as of this date.)

Q (By Mr. Shectman) I show you Petitioner's Exhibit 123, marked for identification, and ask you if you received this letter?

(Handing.)

A Yes.

Q And have you received on each occasion that your National Science Foundation grant has been extended, notice of the granting of that extension?

A Yes.

(Continued on next page.)